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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 373

DATE: Tuesday, April 28, 1992

BEFORE:

A. KOVEN Chairman

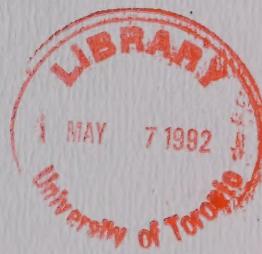
E. MARTEL Member

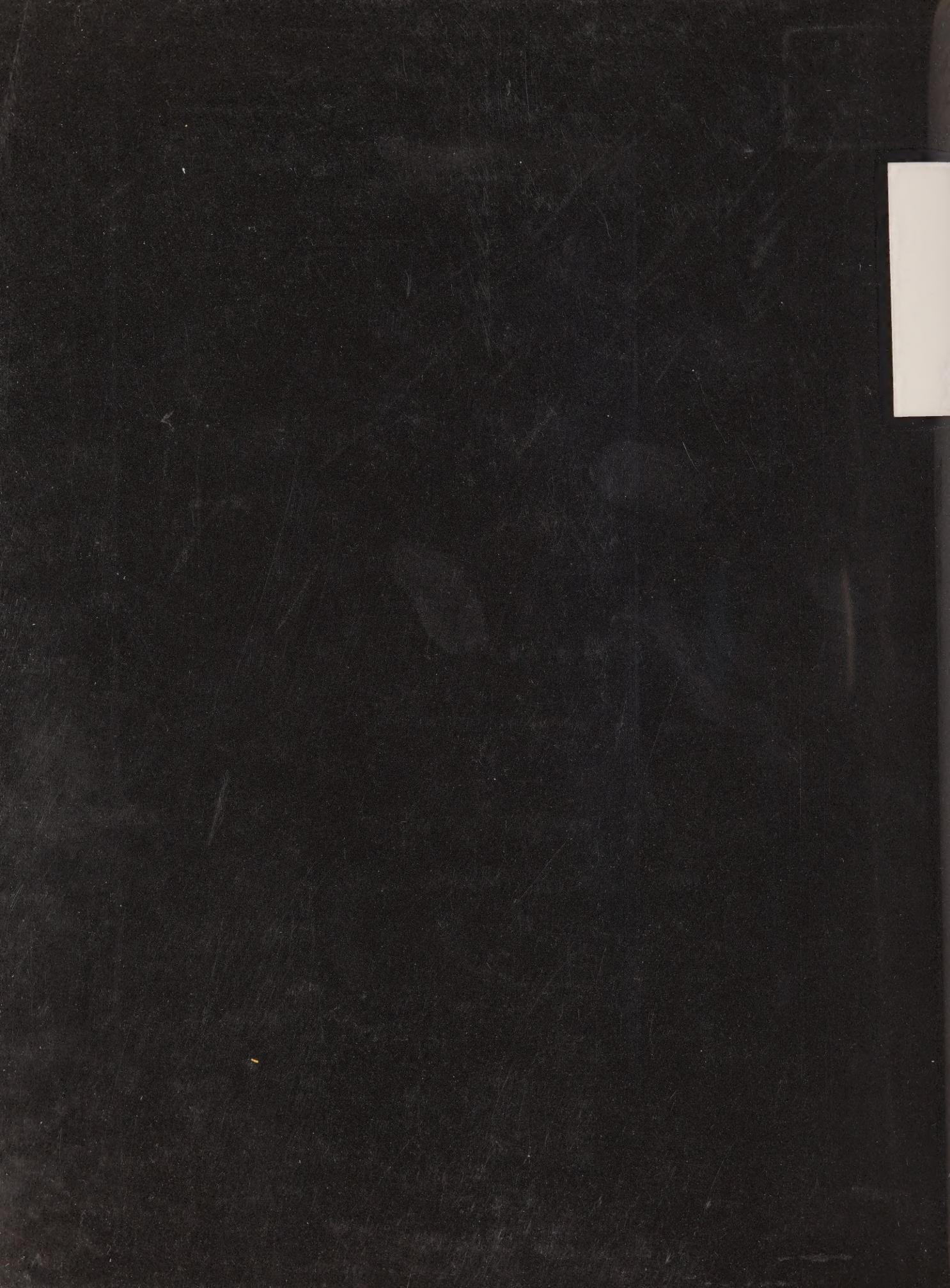
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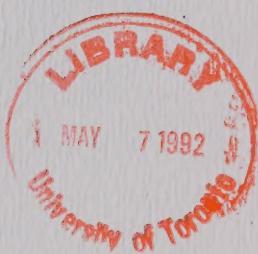
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held at the offices of the Ontario
Highway Transport Board, 10th Floor, 151 Bloor
Street West, Toronto, Ontario, on Tuesday, April
28, 1992, commencing at 9:00 a.m.

VOLUME 373

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
 MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
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MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
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MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

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MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>BERNIE NEARTY,</u>	
<u>HERB BAX,</u>	
<u>DARLENE DAHL; Resumed.</u>	64749
Continued Direct Examination by Ms. Seaborn	64750
Cross-Examination by Mr. Hanna	64890

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
2209	Letter dated April 16, 1992 from the Ontario Professional Forester's Association re initiatives towards formalizing standards and licensing foresters.	64749
2210	Excerpts from the English River Forsest FMA, the Red Lake Crown Management Unit Timber Management Plan, and the Red Lake Crown Management Unit Timer Management Plan for 1991 to 1996.	64770
2211	Four-page excerpt from Kimberley-Clark Canada Inc., Nakina Forest Timber Management Plan plan for 1990 to 2010.	64776
2212A	Base map No. 507933 from the Red Lake Crown Management Unit for period '86 to '91.	64781
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2214	MNR term and condition 32(a) revised.	64801
2215	Overheads to be referred to by Ms. Dahl.	64810
2216	Map depicting areas of eligibility and ineligibility for operations for the 20-year period, 1989-2010, taken from the Brightsand forest management unit.	64816

I N D E X O F E X H I B I T S
(Cont'd)

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
2116B	Stand allocation map taken from the Brightsand forest management unit.	64817
2216C	Map depicting depletion allocations taken from the Brightsand forest management unit.	64818
2217	Hand-drawn chart showing options for allocations.	64860

1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Please be seated.

3 Good morning, Ms. Seaborn.

4 MS. SEABORN: Good morning, Madam Chair,
5 Mr. Martel.

6 BERNIE NEARY,
7 HERB BAX,
7 DARLENE DAHL; Resumed.

8 MADAM CHAIR: Before we get started, Ms.
9 Seaborn, we received a letter from the Ontario
10 Professional Forester's Association in response to a
11 question the Board had posed to the Ministry with
12 respect to the Association's initiatives towards
13 formalizing standards and licensing foresters. We
14 might make this an exhibit.

15 At the end of the correspondence Mr. Ebbs
16 invites any parties who want a copy of this to do so,
17 but I don't think this letter was mailed to the other
18 parties. So we have copies here and we will give it an
19 exhibit number, 2209. This is correspondence of April
20 16th, 1992.

21 ---EXHIBIT NO. 2209: Letter dated 16, 1992 from the
22 Ontario Professional Forester's
23 Association re initiatives
 towards formalizing standards and
 licensing foresters.

24 MS. SEABORN: Madam Chair, when we left
25 off yesterday afternoon we were dealing with Mr. Bax's

1 overheads and we were at overhead No. 5 which is part
2 of Exhibit 2207.

3 CONTINUED DIRECT EXAMINATION BY MS. SEABORN:

4 Q. Mr. Bax, if you could put that
5 overhead up again, please.

6 MR. BAX: A. Madam Chair and Mr. Martel,
7 I'm going to begin by going through our terms and
8 conditions. The reason I put the chart up again is
9 simply to show that as we go through the terms and
10 conditions the thing we are asking for is a linkage and
11 we feel one of the linkages that would probably be
12 easily traceable and concrete and understand is general
13 standard site types.

14 As I indicated yesterday, as far as we
15 could see the proposals from the MNR link guides and
16 grounds rules, but they didn't go any further. So the
17 idea of the chart is just simply to show that these
18 general standard site types we view as an ideal
19 mechanism or one way of providing a linkage and, again
20 traceability, as we go through a timber management
21 plan.

22 One other thing. I may have left the
23 wrong impression yesterday when you asked about being
24 able to identify site types across the province.
25 Although a particular site type may not be found across

1 the entire area of the undertaking, it will be found in
2 different areas of the province or the area of the
3 undertaking. So that you would be able to identify it,
4 yes, and then you could go to a ground rule in a
5 particular timber management plan and find a treatment
6 or silviculture package that the forester prescribed
7 associated with that package.

8 So we would view that as that's the way
9 it would work. So that, again, even the person from
10 the public could understand it and find it in a
11 relatively simple manner.

12 So I would like to begin with our draft
13 term and condition 84 which you can find in exhibit --
14 our draft terms and conditions, Exhibit 2202.

15 Q. Yes.

16 A. It's on page 11 of MOE's draft terms
17 and conditions. This is simply the term and condition
18 that the Ministry of Natural Resources had utilized
19 to -- that they were going to design and implement a
20 coordinated program on growth and yield.

21 It's on page 11, Right at the bottom of
22 the page. I've just gone in chronological order from
23 the overhead rather than by number.

24 So the growth in yield program, we are
25 just simply asking that they should coordinate that

1 again by using general standard site types so that we
2 get that linkage, if you will.

3 MADAM CHAIR: You are talking about MNR's
4 term and condition No. 84?

5 MR. BAX: That's correct. We've just
6 made a small change there. Instead of just "as
7 influenced by site" they should use the general
8 standard site types.

9 I would think what's going to happen
10 there is, if they determine growth from a planted
11 container stock, for example, will excel as opposed to
12 another type of planted stock or natural, that's good
13 to know, but refer it also to the site types so that
14 the forester can use it.

15 Then if we go to our Appendix 8 which is
16 on page 21.

17 MS. SEABORN: Q. Of the MOE terms and
18 conditions?

19 MR. BAX: A. Yes, that's correct, our
20 terms and conditions. We will be going through this
21 for the next little while as I follow the list down.

22 Appendix 8 deals with the report of past
23 forest operations and we understand that the Ministry
24 of Natural Resources is going to require three years to
25 develop the general standard site types.

1 So the first amendment that we've asked
2 for is 1(a), No. 7, and therein we propose to maintain
3 the stand listings. Now, these stand listings are
4 already a requirement of the timber management plan.
5 They are in the appendices.

6 What we're proposing is simply that the
7 stand listing show the silvicultural package that's
8 associated with it as well. They already contain the
9 stand information, the species and volumes that they
10 hope to get from there. This is simply connecting the
11 harvest with the renewal package, if you will.

12 Similarly, in 1(b) then, a summary of
13 areas assessed for free to grow and areas declared free
14 to grow. Again, we feel it's necessary to have that by
15 general standard site type and silvicultural package.
16 So this can be reported by the package or treatment
17 unit, whatever they are going to utilize.

18 Now, we view both of these changes as
19 interim until the general standard site types are
20 available. Once they're available, then these two
21 could be substituted.

22 Q. Mr. Bax, what's your understanding
23 based on your review of MNR's terms and conditions of
24 when the silvicultural guides will be revised to
25 include general standard site types?

1 A. I understand that will be within the
2 same three-year period and that's under their condition
3 78(a), I believe it is, that they've made that
4 indication that they will do that. So that we will
5 have to link from the guides to the grounds rules, then
6 to some of the reports of past forest operations.

7 Finally, at the bottom of page 21 in our
8 1(m) of Appendix 8 we simply, again, ask for a
9 statement of silvicultural effectiveness by general
10 standard site types by working group and silvicultural
11 package.

12 From my review of plans and from talking
13 to the foresters most of them have that already. They
14 have a data base or a summary of their activities in a
15 way so that they -- they have to know what works where
16 and rather than by individual they are going to group
17 it and say these particular treatments, be it planting
18 or seeding or whatever work on these particular sites.

19 That's basic knowledge that he is going
20 to -- he either carries in his head or his data base or
21 his summary data from the SAS records or some of the
22 new initiatives that the Ministry is undertaking.

23 So we're not asking for information, I
24 don't think, that isn't available. It's already there.
25 It's just, again, to put it in a form that there is a

1 linkage so that anybody can trace it.

2 Q. Is that information that you refer to
3 that the foresters you believe already have available
4 in timber management plans themselves?

5 A. No, these are in their project
6 records or summaries of project records, and I also
7 believe it is available from the Ministry information
8 that they're required to keep as well.

9 Q. Now, you have dealt with the report
10 of past operations.

11 A. Yes. Now I would like to go to the
12 annual report which is on page 18 of our terms and
13 conditions -- no, pardon me, Appendix 18, page 29.

14 Further on under Appendix 18, if you go
15 down to page 1(h) they propose to have a summary of the
16 area inspection reports for the management unit, and we
17 have simply asked that, again, include a summary of the
18 monitoring for both compliance -- well, for all three:
19 compliance, effects and effectiveness.

20 So, again, most of this information I
21 would believe is available. It's just in a form
22 that -- again, it's important not only to monitor for
23 compliance, but for effects and effectiveness when we
24 do these area inspection reports, and that is done. I
25 mean, when a forester goes and looks at a site he is

1 going to determine whether it's working or not. That's
2 what he's out there doing.

3 Q. Is that the only change that MOE is
4 suggesting with respect to the annual report in
5 Appendix 18?

6 A. That's correct. Just at the bottom
7 of that page, Appendix 20, again we have asked for a
8 summary of the monitoring that's occurred on the forest
9 management unit in accordance with the annual report
10 from Appendix 18.

11 I guess what struck us was neither MNR --
12 Appendix 18 or 20, neither annual report dealt with
13 effectiveness or effects and we feel it is not
14 necessary to have the same level of specificity in
15 those plans as you would in the annual -- or the report
16 of the past forest operations, but you do need a
17 summary statement indicating what has happened and
18 whether it was working or not. That's what we're
19 after.

20 Those measures of effectiveness, as I
21 say, can be aggregated individually or they can be
22 folded together or it could simply be a sampling by
23 particular site types or particular problem areas at a
24 provincial level. So it could simply be a sample at
25 that level as well that provides that summary.

1 In appendix 23 on page 31, which is the
2 state of the forest report, the data is excellent that
3 is in there and it's the only place in the reports that
4 effectiveness is dealt with and that's in their 1(b),
5 including a provincial overview of silvicultural
6 effectiveness.

7 Q. Just stopping there, Mr. Bax. When
8 you say 1(b) you are referring then, if you look at MOE
9 terms and conditions on page 30, we have MNR's term and
10 condition with respect to the state of the forest and
11 then on page page 31 we have MOE's?

12 A. That's correct.

13 Q. You said that in MNR's there is a
14 statement of silvicultural effectiveness?

15 A. That's right. They're including a
16 provincial overview of silvicultural effectiveness at
17 the provincial level and we're asking that -- that's
18 good. We are just assuming I guess for clarification
19 and, again, to provide traceability that would be drawn
20 from data contained in the annual reports.

21 MR. MARTEL: How will they do that if
22 they are not doing it -- they are aggregating
23 obviously. That material has to be somewhere else for
24 them to do this.

25 MR. BAX: Yes. It would come from the

1 annual reports that they provided for the forest
2 management unit or the report of past forest
3 operations.

4 MR. MARTEL: But they are not included, I
5 think you said. You said this was the only place that
6 MNR --

7 MR. BAX: I would think that they would
8 sample at a provincial level. This is a state of the
9 forest report at that level. It can be aggregated or
10 it can be drawn from some of the data in their previous
11 reports.

12 MR. MARTEL: But for them to reach that
13 figure it has got to be somewhere.

14 MR. BAX: That's correct.

15 MR. MARTEL: I raised the question
16 yesterday, what's preventing this from being achieved.

17 If they are coming up with a final figure
18 for the province they have had to aggregate that unit
19 by unit or they would have to guesstimate or somehow
20 they are coming up with that silvicultural
21 effectiveness and the question then becomes obvious:
22 How can you do that if you are not prepared to do it on
23 management unit by management unit? How does one get
24 that bottom line?

25 MR. BAX: Well, I've assume the same

1 thing. They are going to draw it I assume from the
2 annual reports. They have to start somewhere, either
3 from the forest unit level or from the reports of past
4 operations.

5 MR. MARTEL: Okay. Then let's work
6 backwards. You've been indicating in Appendix 18 and
7 Appendix 20 that this material might exist in someone's
8 head, but that doesn't tell me if it's not written
9 somewhere.

10 MR. BAX: Well, they have the
11 documentation, I believe, through their own
12 silvicultural record keeping systems.

13 There is the SAS and there are some new
14 initiatives going on with the silvicultural treatment
15 effectiveness monitoring program that they have. I
16 believe the acronym is STEMS.

17 So, again, this is something the MNR
18 would have to speak to, but I believe that data is
19 available. What we are asking for is put it somewhere
20 in the timber management plan documents that we can
21 track it and then it makes just good sense.

22 MS. SEABORN: Q. What's your
23 understanding, Mr. Bax, with respect to how MNR
24 proposes to do their provincial overview of
25 silvicultural effectiveness as they state in their term

1 and condition, or can you provide the Board with an
2 opinion on that? Do you know how they propose to do
3 it?

4 MR. BAX: A. I'm not intimately
5 familiar, no, with what the MNR is doing, although in
6 their term and condition 80 they do refer to some of
7 the new initiatives they are undertaking in that area
8 and I know they have the STEMS, they have the timber
9 management plan, the planning information system.

10 So there are various initiatives
11 underway, but what we're asking for is something from
12 those reports to allow traceability in the timber
13 management planning document so that public or anybody
14 from the outside can have some traceability.

15 We feel since they started with the
16 general standard site types, and we agree with that
17 initiative, that that seems to be a practical way to do
18 it.

19 Q. You haven't on your chart, Mr. Bax,
20 drawn on arrow on the MNR side from general standard
21 site types down to the report box where you have report
22 of past operations, annual reports, et cetera, whereas
23 you have on the MOE side. Is there a reason for that?

24 A. Well, yes. Again, we're just trying
25 to show that those general standard -- our

1 recommendation is that we use the general standard site
2 types initiative which the Ministry has undertaken as
3 the linkage.

4 They haven't shown that and what we're
5 asking the Board do then is really make that explicit.
6 If they are going to have a way of linking, why don't
7 you use your GSST initiative.

8 Q. Thank you.

9 A. That's what we're addressing in these
10 changes in the terms and conditions.

11 Finally, we have two other
12 recommendations. First of all, on page 11, back of
13 page 11.

14 Q. Of MOE terms and conditions?

15 A. Of MOE terms and conditions, correct.
16 At 64(a), you can see on the left -- pardon me, on the
17 right on page 11. We have inserted that monitoring
18 again -- or the Ministry of Natural Resources indicated
19 they would monitor for compliance and we have simply
20 added the word effects and effectiveness.

21 Again, most of the questions you get from
22 the outside would seem to deal with effects or
23 effectiveness, not with compliance. If we're going to
24 do that monitoring we might as well monitor on that
25 basis all the way through again in just a consistent

1 manner. So that's our change to 64(a).

2 Then finally back to the report of past
3 forest operations on page 21 in our terms and
4 conditions, and on page 21, 1(a)(c) then, we have again
5 inserted the words monitoring -- recommendations for
6 improving compliance effects and effectiveness on a
7 forest management unit. Again, it's more a matter of
8 contingency and traceability.

9 We feel that that compliance is important
10 and, obviously, it tells you what you plan to do and
11 whether you did it or not, but we have to go beyond
12 that and we're asking for effectiveness as well
13 reporting throughout the timber management planning
14 documents that are available to the public.

15 Q. Mr. Bax, in your opinion are these
16 terms and conditions practical?

17 A. Yes, I believe they are.

18 Q. And what additional work, if any,
19 will be required by the unit forester to comply with
20 MOE's proposals as you have explained them?

21 A. I believe that most of the data is
22 already available either in the foresters' summaries,
23 their data banks, information from the record keeping
24 that they have to undertake for the Ministry of Natural
25 Resources, and a resorting of the database or the

1 spread sheet can simply provide the linkages, if you
2 will, by the general standard site types that we are
3 asking for. It's just simply a more easily traceable
4 way of reporting.

5 Q. Now, in your view is it important to
6 determine whether silvicultural prescriptions are
7 effective?

8 A. Yes, it's absolutely necessary
9 because that's what he's there for. The forester is on
10 the ground.

11 If I can go back to our witness statement
12 which is Exhibit 2200A on page 10 and 11. I have
13 quoted from three other foresters. I would just like
14 to read them for a minute, if I may, for the record.

15 First of all, in the bottom of page 10
16 then behind Tab 2, addressing this very question.

17 First of all, Mr. Armson testified that:

18 "Information on successes and failures
19 and, more importantly, the reasons for
20 those successes and failures must be
21 available on a consistent basis across
22 the province."

23 Mr. Young testifying on behalf of the
24 OFIA indicated that his:

25 "...company had initiated a computerized

silviculture information system which will provide the information required to determine what prescriptions actually produce the best results."

Mr. Marek testifying on behalf of Forests
for Tomorrow also agreed that in order to track
accurately silvicultural effectiveness a mechanism is
needed to trace the results of the prescriptions back
to the initial actions taken on the grounds.

So I do not believe my view is unique.

Q. Now, Mr. Bax, at the scoping session the Board asked whether the Ministry of the Environment was proposing any general standard site types.

A. No, we are not proposing any particular general standard site types. The site types we feel would be developed using the current silvicultural guides that were put out, the existing forest ecosystem classification system that is being developed across the area of the undertaking and other available site information.

I have seen industry plans which use general standard site types for everything they own on their particular forest management unit. There was one I reviewed last year which had seven site types. It's simple, it's understandable. Everything they do on

1 that particular forest unit can be governed by those
2 particular seven site types that they had on the unit.

3 There's another one I recall that had
4 five. The Hearst Timber Management Plan, which we are
5 just in the process of going through a review, has
6 four, four simple, practical site types that provide
7 that linkage.

8 I feel it comes from the foresters and
9 they've made it a workable tool. So we feel strongly
10 also that it would be a good method for traceability
11 because it is a practical method that comes from the
12 field.

13 MADAM CHAIR: Mr. Bax, on a related
14 issue. We've had discussion at this hearing about how
15 we would report to the public on silvicultural
16 effectiveness and we have discussed whether the public
17 would be able to understand a free to grow concept
18 although, as you said yesterday, the only really final
19 measure of silvicultural effectiveness is to have adult
20 trees at rotation age and we have discussed what the
21 public has fixed its imagination on in the past and
22 that has been the number of trees planted, whether that
23 has any validity as a measure of silvicultural
24 effectiveness.

25 Have you given thought to that? You have

1 obviously given lots of thought to the technical
2 process of analysing silvicultural effectiveness in a
3 way that would assist a forester and would assist
4 expert members of the public in understanding
5 silvicultural effectiveness, but have you given any
6 thought to how these statistics would be explained in a
7 public report such as the annual state of the forest
8 report?

9 MR. BAX: Yes, I have given some thought.
10 My experience has been, even dealing with the public
11 then, for example, that we come to them with the FEC
12 system that has been developed in my particular area
13 and it is still it too complicated. It is tough enough
14 for foresters to understand it.

15 But I think across the province you will
16 find foresters that have developed these general
17 standard site types that are utilized by them
18 operationally.

19 I mean, if I come to an open house and
20 there are four general standard site types I think the
21 public can understand and can relate it then to the
22 various activities that we come to within our various
23 reports, especially the technical details.

24 What struck me, for example, even
25 Saturday when we were trying to explain to several of

1 the stakeholder groups, when we showed them even a
2 stand map, there is just so much information on there.

3 I think the foresters that have developed
4 these practical approaches -- utilizing just general
5 standard site types I think is a good mechanism. You
6 know, I can remember four, five or six, but I can't
7 remember 40 and I think you get overwhelmed. Even as a
8 professional it's tough to remember all the various
9 substrates.

10 I'm not a site classification expert, but
11 if I go to the field and I've got four or five in my
12 mind, from my experience talking to the foresters and
13 working across the area of the undertaking, most of
14 them seem to evolve to that number, somewhere between
15 four and, let's say, ten because that's a practical
16 number.

17 I think that's why this initiative using
18 general standard site types that the Ministry is
19 proposing, and we want to track through in all the
20 reports, may be a simpler way to provide this
21 information to the public.

22 MADAM CHAIR: So in one of the reports,
23 the state of the forest report, you would see the
24 public reading a chart or some prose that would say in
25 jack pine forests in the area of the undertaking, in

1 jack pine forests we are having good success in
2 regeneration because we can show you that everything we
3 have done with respect to planting or natural
4 regeneration or seeding or whatever has led to some
5 success rate with this particular kind of a forest?

6 MR. BAX: That's right.

7 MADAM CHAIR: But in mixed forests we are
8 not having as high a success rate for these reasons?

9 MR. BAX: That's right, exactly. At a
10 provincial level that's exactly what you will see.

11 I think the public will understand that
12 and, you know, be able to grasp it. I think our
13 biggest problem sometimes is we try to become too
14 technical in our explanation and probably some of the
15 people that are involved in the reporting, they lose
16 touch with the field.

17 I mean, what struck me when you go
18 through these timber management plans, there is good
19 examples in there that have been evolved out of these
20 foresters working on these sites and are workable for
21 them.

22 MS. SEABORN: Q. Mr. Bax, at page 12 of
23 your evidence you state that - and I don't think it is
24 necessary to go to it - that:

25 "Silvicultural ground rules comprise

1 integrated packages of silvicultural
2 treatments."

3 Then you go on to say that:

4 "Silvicultural success results from the
5 appropriate integration of each of the
6 elements comprising the package."

7 Could you elaborate for the Board on what
8 you mean?

9 MR. FREIDIN: I'm sorry, what page is
10 that found on?

11 MS. SEABORN: Page 12.

12 MR. FREIDIN: Thank you.

13 MR. BAX: The Ministry of the
14 Environment, we agree with the use of silvicultural
15 ground rules obviously.

16 What we found -- well, a package must be
17 descriptive enough or detailed enough to determine all
18 the components of it and to see if it is truly
19 effective. I found in my review of the silvicultural
20 ground rules that I went through, the Table 4.11s, that
21 there was a wide variance in the level of detail
22 provided in the ground rules. They weren't consistent
23 at all.

24 MS. SEABORN: Q. Do you have some
25 examples you want to provide to the Board.

1 MR. BAX: A. Yes, I do. I have an
2 exhibit which I would like to enter and that shows
3 three management plans that I have used as an example.

4 MS. SEABORN: Madam Chair, these are
5 excerpts from three plans: The English River Forest
6 FMA, the Red Lake Crown Management Unit Timber
7 Management Plan, and the Red Lake Crown Management Unit
8 Timber Management Plan for 1991 to 1996. This package
9 is five pages.

10 MADAM CHAIR: Thank you. That material
11 will be Exhibit 2110.

12 ---EXHIBIT NO. 2210: Excerpts from the English River
13 Forest FMA, the Red Lake Crown
14 Management Unit Timber Management
15 Plan, and the Red Lake Crown
Management Unit Timber Management
Plan for 1991 to 1996.

16 MR. BAX: I have taken some excerpts from
17 the silvicultural ground rules, Table 4.11, to use as
18 my example.

19 The first one is Exhibit 1217 which is
20 the first page in there is page No. 60 and it is Table
21 4.11 from the English River FMA. The only point I want
22 to make here is it shows the silvicultural system is
23 clearcut, but leaves the harvest or method of harvest
24 blank. So we really don't know -- it's a very broad
25 silvicultural ground rules without any level of

1 specificity that would help in terms of determining
2 effectiveness. So the method of harvest is not
3 indicated.

4 The next one is at page No. 55 from the
5 Red Lake Crown Management Unit. This is for their
6 period 1986 to 1991 and the silvicultural system is,
7 again, indicated but they refer under harvest method
8 to -- well, they provide more than one method. There
9 are three in this case.

10 MS. SEABORN: Q. You are looking at the
11 column shortwood, tree length or full tree?

12 MR. BAX: A. That's correct.
13 Well, we will get into that further, why we feel it is
14 important to show the method of harvest.

15 Finally, on Table 4.11, the last page
16 from the new Red Lake Crown Management Unit Management
17 Plan for 1991 to 1996. What is interesting is it's the
18 same area. Again, we see under the silvicultural
19 system clearcut and they labelled the method of harvest
20 clearcut. So it is not clear really what they are
21 going to do under their method of harvest, what kind of
22 logging method they're going to use.

23 Q. Now, Mr. Bax, do you as a forester
24 make a distinction between harvest method and logging
25 method?

1 A. No, I don't. I feel they're the
2 same, but obviously the Ministry of Natural Resources
3 or the people utilizing the Timber Management Planning
4 Manual do think it's different or they treat the words
5 differently and that has led to some of the confusion,
6 I believe, in the silvicultural ground rules.

7 In the Timber Management Planning Manual
8 harvest method is simply referred to as a modification
9 of the silvicultural system, usually clearcut. They
10 indicated whether it is in blocks or strips. Well,
11 that's not a logging method. That's simply the
12 silviculture system that's in place. So I feel that
13 has to be cleared up.

14 In the previous evidence from the Red
15 Lake plan also they did utilize it. I mean, there are
16 foresters that utilize it as a logging method and there
17 are ones that don't. So there's some confusion there.
18 I think that's why we have this term and condition and
19 it should be clarified.

20 Q. Now, Mr. Bax, in your opinion what
21 information should be provided by the forester in
22 developing the ground rules for Table 4.11?

23 A. Well, it is under these two areas
24 where we have some concern. Simply the silvicultural
25 system is either the clearcut or the selection or the

1 shelterwood and the logging method should be the five
2 methods that we have available right now which is full
3 tree harvesting, shortwood, tree length or cut to
4 length and full tree chipping.

5 Q. In your view it is possible at the
6 five-year planning level to indicate whether a type of
7 site should be, say, full tree logged versus shortwood
8 logged?

9 A. Yes, this is what a forester would
10 know based on his knowledge of the site type.

11 Q. Is the choice of logging method
12 significant in your opinion?

13 A. Very much so.

14 Q. Why is that?

15 A. Well, the choice of logging method is
16 an important factor in determining the characteristics
17 of the post-harvest type and what we can do to with in
18 terms of the renewal treatment.

19 It is the first -- I mean, it is the
20 first significant decision a forester makes in
21 silvicultural, is what type of logging method and what
22 type of harvest cut he is going to do.

23 So we feel that the ground rules should
24 specify the preferred silvicultural package and in that
25 package be contained the details that will enable us to

1 determine what he proposes to use.

2 Q. I understand you prepared an overhead
3 to illustrate an example to the Board?

4 A. Yes, I have. This would be my
5 overhead No. 6. It's just a simple example.

6 Q. This is from Exhibit 2207, overhead
7 6.

8 A. In this particular sample, Table
9 4.11, I used a jack pine intermediate site and we are
10 going to put it back to jack pine and clearcut it in
11 full.

12 I have just shown that with the five
13 logging methods that we have available to us, the
14 result of that logging method will affect what renewal
15 method we are going to use or what would be our first
16 choice.

17 In this case, for example, the first
18 three, the tree length, shortwood or cut to length, we
19 would probably not plant simply because on this type of
20 site we would expect we would have enough seed source
21 from natural or artificial seeding that we could renew
22 the site.

23 If we are going to harvest it under full
24 tree harvesting or chipping, we would probably have to
25 plant on this particular site. That's the one jack

1 pine site.

2 In my overhead No. 7 we have a jack pine
3 forest unit. In this case it's a very shallow site.
4 So, first of all, we would not recommend that we use
5 full tree harvesting or chipping, but under the
6 silviculture system again we would clearcut it in
7 blocks and this time the three logging methods, tree
8 length, cut to length or shortwood, we would probably
9 again not plant because it's a very shallow site, but
10 rely on either seeding, artificial seeding or natural
11 to renew this site.

12 So the logging method definitely has an
13 impact in terms of what we can do subsequent to the
14 harvest.

15 I have one other example. This is from
16 the Nakina Forest which acknowledges that there is a
17 silvicultural difference between tree length and full
18 tree harvesting.

19 Q. I understand you would like to file
20 with the Board an excerpt from that plan?

21 A. That's correct, Ms. Seaborn.

22 MS. SEABORN: Madam Chair, this is a
23 four-page exhibit. It is an excerpt from
24 Kimberley-Clark Canada Inc., Nakina Forest, the plan
25 for 1990 to 2010 and it is the cover page and pages 71

1 to 72.

2 MADAM CHAIR: Thank you. This will be
3 Exhibit 2211.

4 ---EXHIBIT NO. 2211: Four-page excerpt from
5 Kimberley-Clark Canada Inc.,
6 Nakina Forest Timber Management
7 Plan plan for 1990 to 2010.

8 MR. BAX: I would first like to go to the
9 third page, page 71, and if you could just take a
minute to read the bottom paragraph on that page.

10 "On the Nakina Forest, the silvicultural
11 differences between tree length and full
12 tree harvesting systems must be
13 considered. The tree length harvesting
14 system leaves a reasonably uniform
15 distribution of splash and logging debris
16 on the cut-over. The benefits of this
17 system are that a significant level of
18 natural seeding may occur from the
19 remaining cone bearing material and the
20 large amounts of slash and logging debris
21 support a prescribed burn."

22 In the full tree system, the other
23 logging method, since the trees are limbed and topped
24 at the landing the seed source and in some instances
25 fire carrying capacity are lost.

1 If you go to page 72 then which is the
2 start of their silviculture ground rules, their table
3 4.11, he doesn't follow our recommendation to indicate
4 under method of harvesting again. You can see he uses
5 clearcut. We would propose then that he should show
6 tree length or full tree because he has acknowledged
7 that difference, but under his specific requirements,
8 the middle of the page, he has under harvest tree
9 length slash to be left in cut-overs and right below
10 that mechanical full tree.

11 You can see with the harvest tree length
12 he has allowed the first option there, site preparation
13 for natural, and the fourth one is site prep using
14 mechanical or prescribed burning, whereas the one under
15 mechanical full tree both those are missing. Obviously
16 for the reasons he has indicated.

17 So there is an acknowledgment there in
18 this particular unit that the logging method does
19 indeed make a difference in terms of the renewal
20 options also that are available.

21 MADAM CHAIR: Mr. Bax, what do you think
22 of the argument we have heard that it is necessary to
23 have some choice in these ground rules in the event
24 that the contractor who would do tree length logging
25 for you wouldn't be available to do it at that time and

1 you would have no choice other than full tree?

2 MR. BAX: That happens all the time.

3 What we're saying is then make sure you include it as
4 an option, a package in your Table 4.11. So that you
5 know if you are going to be utilizing a tree length
6 method then these are the options you are going to use.

7 If you were going to be utilizing a full
8 tree or full tree chipping, for example, then you're
9 going to have certain packages associated with it.

10 What we want to see is those packages
11 listed in the ground rules so that the forester is
12 aware of the differences and its effect on renewal
13 because then we can determine that effectiveness indeed
14 is being carried out.

15 So as long as it's included in the ground
16 rules, then that forester on the unit has that
17 flexibility. He has acknowledged it and he knows there
18 is a difference and he has allowed for it in his
19 renewal treatments or options that he has available.

20 So it doesn't take away from the
21 operational flexibility because market conditions
22 change, contractors change. That's on operational
23 constraint that happens quite frequently.

24 MS. SEABORN: Q. Now, Mr. Bax, is MOE
25 proposing a term and condition in respect of this

1 issue?

2 MR. BAX: A. Yes, we are. If we go back
3 to our draft terms and conditions on page 3. Yes, on
4 page 3, the term and condition 21(a)(1). What we've
5 added simply is that the preferred silvicultural
6 package include the silvicultural system, the logging
7 method and then in brackets full tree harvest, full
8 tree chipping, shortwood tree length or cut to length.
9 So we are aware of what package they are utilizing and
10 the logging method associated with that.

11 Q. Mr. Bax, as a professional forester,
12 could you prepare ground rules in accordance with MOE's
13 term and conditions 21(a)?

14 A. Yes, I have no hesitation at all
15 recommending this type of change.

16 Q. Could you prepare those ground rules
17 at a five-year planning interval?

18 A. Yes, I would be able to.

19 Q. In your opinion would the adoption of
20 this term and condition restrict your ability to
21 practise good forestry?

22 A. No, in fact, I would look for it to
23 see if he is practising good forestry.

24 Q. Mr. Bax, I want to turn now to the
25 second issue that you deal with in your written

1 evidence which is the information on expected
2 operations which begins at page 14 of your evidence
3 behind Tab 2.

4 MS. SEABORN: This Madam Chair, is the
5 issue of mapping preferred silvicultural packages at
6 the five-year planning level.

7 Q. Now, Mr. Bax, does MNR currently map
8 prescriptions?

9 MR. BAX: A. Yes, some of them are
10 mapped. The location of silvicultural treatments for
11 prescribed burning and aerial spraying will be mapped
12 according to their term and condition 32.

13 Q. Now, what is that MOE has proposed to
14 date in its terms and conditions that is different from
15 what MNR has thus far proposed to do?

16 A. Well, we are proposing that the
17 entire silvicultural package be mapped.

18 I have reviewed the Red Lake Crown
19 Management Unit Plan for '86 to '91 and also for '91 to
20 '96 and I've put up these maps which I refer to. This
21 one here is base map 507933 which is from the Red Lake
22 Crown Management Unit for the '86 to '91 period and
23 then the other one --

24 Q. We will just mark each of these
25 perhaps, Mr. Bax. The first map then is from the...?

1 A. The Red Lake Crown Management Unit
2 from '86 to '91.

3 MADAM CHAIR: This was the base map?

4 MR. BAX: Yes, that's correct, 507933.

5 MADAM CHAIR: This will becomes Exhibit
6 2212.

7 ---EXHIBIT NO. 2212A: Base map No. 507933 from the Red
8 Lake Crown Management Unit for
9 period '86 to '91.

10 MR. BAX: The other one is a photocopy of
11 a map. Should I go through this one first?

12 MS. SEABORN: No, if you could put the
13 exhibit number up on the top right-hand corner it will
14 probably be helpful to Mr. Pascoe.

15 MR. BAX: Sorry, what was the exhibit
16 number?

17 MS. SEABORN: 2122.

18 MADAM CHAIR: Mr. Pascoe has memorized
19 all the exhibits. He can find them in a moment.

20 MR. BAX: This one is base map No.
21 512934. We weren't able to get an original, but it is
22 a photocopy of the map from the new Red Lake Crown
23 Management Unit Plan.

24 MS. SEABORN: Q. So this is from the Red
25 Lake plan for '91 to '96?

 MR. BAX: A. That's correct.

1 MADAM CHAIR: This will Exhibit 2213. Do
2 you want this to be A and B, Ms. Seaborn?

3 MS. SEABORN: It doesn't really matter,
4 Madam Chair, whatever you like.

5 MADAM CHAIR: Why don't we make the '86
6 to '91 Red Lake TMP map Exhibit 2212A and 1991 to '96
7 TMP map to be 2212B.

8 ---EXHIBIT NO. 2212B: Base map No. 512934 from the Red
9 Lake Crown Management Unit for
period '91 to '96.

10 MR. BAX: I will refer to them as I go
11 through them. First of all, the ground rules for the
12 Red Lake Crown Management Unit filed during MNR's Panel
13 15 indicated preferred silvicultural packages, as most
14 of them do.

15 I reviewed 13 of the base maps - there
16 are 17 filed here - listed in the plan and found that
17 the silvicultural packages on all were listed as
18 preferred packages by bar chart. I have on overhead.
19 This is my overhead No. 8.

20 MS. SEABORN: Q. Now, Mr. Bax, I
21 understand this is the legend from what is now Exhibit
22 2212A, the base map, and you have just done a blow-up
23 of the legend?

24 MR. BAX: A. That's correct. He simply
25 uses a bar chart to use what components of the

1 silvicultural package occur in a particular area or the
2 stands in this case. It shows the harvest method, the
3 site prep, the regen and the maintenance. It's just a
4 simple bar chart. You can see them here. You might be
5 able to see them here. In fact, they are colour coded
6 as well.

7 MADAM CHAIR: All right, colour coded.

8 So if I wanted to look on the map and see modified
9 clearcutting I could find a colour?

10 MR. BAX: Yes, it's by colour actually
11 and by acronym. You can't see it from there, but he
12 uses the -- HM is heavy mechanical site preparation,
13 planting to container stock he has got a CS in there as
14 well.

15 MADAM CHAIR: All right.

16 MR. BAX: I think the important thing is
17 and what I would like to show is just that the packages
18 are referred to by the acronyms, if you will, the
19 letters.

20 MADAM CHAIR: You said there were 17 of
21 these base maps.

22 MR. BAX: Yes, there are 17 base maps
23 listed in the management plan.

24 MADAM CHAIR: For the five-year plan?

25 MR. BAX: Yes, five-year level and there

1 were 13 here that I had a chance to go through.

2 MADAM CHAIR: All right. And the map
3 that I am looking at is only one of...

4 MR. BAX: The 13 filed here.

5 MADAM CHAIR: What areas does that cover
6 by hectares? What size is that?

7 MR. BAX: This is a 1:15,840. So
8 that's -- oh, hectares, I don't know.

9 MS. DAHL: 132.

10 MR. BAX: It is 132. Thank you. I think
11 in acres.

12 He has indicated the five-year level of
13 the stands he is planning to go to, but he identifies
14 the silvicultural package and, again, it's
15 understandable to the public.

16 MADAM CHAIR: This has to be done by
17 hand?

18 MR. BAX: Yes, this particular one is
19 done by hand.

20 MS. SEABORN: Q. Now, we have already
21 marked, Mr. Bax, the map from the 1991 to 1996 Red Lake
22 plan.

23 MR. BAX: A. Yes, I have.

24 Q. What did you find with respect to
25 mapping when you reviewed that plan and map?

1 A. Well, it's interesting. The same
2 management unit, different forester, different period,
3 but came up with again a practical approach to putting
4 the knowledge or the information that we're after which
5 is after the silvicultural packages. Where do they
6 occur in the unit or where is he proposing to use these
7 silvicultural packages.

8 I have an exhibit that I would like to
9 hand out to explain what this person has done.

10 MS. SEABORN: Madam Chair, the next thing
11 we would like to file is an excerpt from the Red Lake
12 plan, 1991 to 1996, and it is eight pages.

13 MADAM CHAIR: Thank you. This will be
14 Exhibit 2213.

15 ---EXHIBIT NO. 1213: Eight-page excerpt taken from the
16 Red Lake TMP, 1991-1996.

17 MR. BAX: First of all, to explain what
18 he did on the map then, I would like to go to page 77
19 where he begins describing his silvicultural ground
20 rules.

21 MS. SEABORN: Q. This is page 77 of
22 Exhibit 2213?

23 MR. BAX: A. That's correct. Just in
24 the middle of the page he describes the ground rules
25 and the considerations or the factors he utilized in

1 developing the ground rules for his Table 4.11.

2 The first one he refers to is the site
3 description or site treatment units in units. Behind
4 that he has FEC, the forest ecosystem classification,
5 for northwestern Ontario and for our area that he has
6 developed.

7 Probably the easiest way to describe it
8 is if you read the bottom two paragraphs, site
9 description, site treatment units. He asks for:

10 "A clear and practical site description
11 criteria is an essential prerequisite to
12 proposing forest renewal treatment
13 options. Several factors contribute to
14 forest establishment. However, soil
15 characteristics are perceived to have the
16 greatest influence in tree survival and
17 growth."

18 So the criteria used to delineate forest
19 sites within this plan are soil types identified in the
20 northwestern Ontario forest ecosystem classification.

21 So he acknowledges this it is forest
22 soils that he is going to use as the basis for
23 delineation. He tells us how he has got the
24 information.

25 Then if we go to the next page, 78, you

1 can see that the soil treatment units are simply
2 aggregations of FEC soil types based on similar
3 textures, moisture regimes and productivity potential,
4 and he has come up with in this particular case with
5 five soil treatment units.

6 Referring to what we were discussing
7 before, Madam Chairman, those could be site classes as
8 well. It is the same thing. I view it as soil
9 treatment uses or site class.

10 Again, what I find interesting is most of
11 them come up with this five to seven, four.

12 So he has taken these five soil treatment
13 units that he has acknowledged and recognized
14 particular to his area and mapped them on a map, but he
15 has also included them in the ground rules. So that we
16 have a simple way of tracing again what the forester is
17 proposing in the ground rules and what he's going to do
18 on the ground at the five-year level.

19 So I can go to any particular stand, 271.
20 He has got here the stand description as well as SS5.
21 So I right away know what type of soil treatment unit
22 he is going to classify that under. I can go to the
23 ground rule and see this is his preferred package for
24 that particular site type.

25 So it is just another way of mapping what

1 he expects to do and what we can see from looking at
2 the map, how he is going to harvest it, how he is going
3 to renew and how he is going to maintain this
4 particular site.

5 MADAM CHAIR: Now, are these numbers, S4,
6 5 and 6 and so forth from the FEC?

7 MR. BAX: That's correct. He has just
8 grouped them together into common workable units.

9 Again, I think the key is practicality so
10 that we can understand it and it's a workable number
11 and the public can follow it through too.

12 So if we go to an open house and we are
13 particularly concerned along this lake, how quickly
14 they are going to renew it or what type of logging
15 method, I can simply go to the ground rule and say,
16 yes, with an S5 he is going to utilize this
17 particular treatment. So it's an easy way to provide
18 that traceability using site types.

19 Q. Mr. Bax --

20 MR. MARTEL: Could I ask a question?

21 MS. SEABORN: Sure, Mr. Martel.

22 MR. MARTEL: When you make these
23 suggestions, I think you said just a few moments you
24 can do it by soil treatment units or you could use a
25 site type classification.

1 Unless we move now to get the same type
2 of classification across the province, either you do it
3 by soils or some other methods, we are going to have
4 just as big a hodgepodge as we have now unless everyone
5 is playing by the same ground rules.

6 MR. BAX: That's why it's important to go
7 right back and right to the silvicultural guides. I
8 mean, that's the governing document, if you will, where
9 we start from across the whole level of the province so
10 that -- like, the black spruce working group guide,
11 silvicultural guide right now I believe has five broad
12 categories.

13 Well, for the provincial level that's
14 probably sufficient. Even at the forest management
15 unit I would see those five types listed in the guide
16 then; for example, if you remember my overhead chart
17 broken done. So that in this mapping exercise this
18 forester would have again maybe five or seven, but they
19 would be subsets of those five broad provincial black
20 spruce types.

21 MR. MARTEL: I guess what I'm just trying
22 to get at is, how do we ensure that we have consistency
23 in every area because you said you can use soil
24 treatment.

25 Which one are you recommending that we

1 use then?

2 Then you moved to black spruce and you
3 said: Well, there could be five or seven.

4 For me part of the problem has been over
5 the beginning, and I think we have some of the
6 witnesses who said that, that across the province it is
7 the language and the inconsistency that makes it
8 difficult to understand what's going on.

9 I mean, different foresters use
10 different -- I mean, everything that we have done,
11 colour coding for the exercise on clearcuts. Either we
12 come to a consistent package or when we are finished we
13 are going to be no further ahead and so that's why I
14 worry when you say we can use this or we can use that.

15 Somebody should be recommending we use
16 this because if we continue to use this here and that
17 there we're not going to be one tittle further ahead
18 than we are now.

19 MR. BAX: We're not hung up on which
20 method they use. All we are asking also is use a
21 standard approach, if you will, that's traceable.

22 They have began their general standard
23 site type initiative and we feel that would suffice to
24 provide the traceability that we are after. As they
25 develop these general standard site types our

1 recommendation would be to go this way. Show them in
2 the ground rules, link them on the maps and then we've
3 have --

4 MR. MARTEL: By what, though?

5 MR. BAX: By....?

6 MR. MARTEL: You haven't got any
7 descriptions yourself, you said that, let MNR develop
8 them, then you talk about soil types and you talk about
9 some other things.

10 See, the difficulty is -- is it because
11 someone is not taking the bulls by the horns and
12 saying: Well, since you don't want to do it this is
13 what we're recommending, do it this way, this way and
14 this way.

15 They might say no, but it is the loosey
16 goosiness, if I might use the term, that will leave us
17 where we were before. We might have advanced a little
18 bit, but unless we get consistency in each unit how do
19 you aggregate?

20 MADAM CHAIR: Mr. Bax, isn't it your
21 impression that as a result of MNR's proposals under
22 term and condition 78(a) that within three years there
23 will be a common classification scheme or description
24 that everyone will use across the province?

25 MR. BAX: That's correct.

1 MADAM CHAIR: And over the next three
2 years they are attempting to bring some order into this
3 mixture of different site descriptions?

4 MR. BAX: Exactly. I think you do have
5 to allow - the forester, certainly - you have to allow
6 for the variability across the forest that you're
7 managing, but I'm not a site classifier again, but they
8 have people on staff that are trained in that ability.

9 My own concern is, it has got to be
10 simple and traceable and it has got to be the linkage,
11 and that's what the Ministry of the Environment is
12 recommending also.

13 MADAM CHAIR: From the examples you have
14 given you have talked about three and five and seven
15 broad site types as being fairly...

16 MR. BAX: I think like at open houses,
17 when I come to do a review that's all I need.

18 When I go to the particular project in
19 the field we will look at the classifications in there,
20 but when we come and do a review we can't remember any
21 more than that and I don't think the public can either.
22 That's enough and that's enough to provide the
23 description and the traceability that we're looking for
24 in terms of public reporting as well.

25 MADAM CHAIR: But you can see no body

1 other than MNR sorting this out and defining what these
2 site types will be?

3 MR. BAX: No.

4 MADAM CHAIR: You are not in a position
5 to do that?

6 MR. BAX: No, they have the capability,
7 they have the staff. My only plea to them would be to
8 look at the -- talk to the foresters that have
9 developed these simple common site types. Sometimes I
10 think they don't relate to the field enough, but that's
11 me as a practising forester.

12 MS. SEABORN: Q. Mr. Bax, would you go
13 to your overhead 9 now which I believe is the
14 silvicultural ground rules.

15 MR. BAX: A. For this?

16 Q. For this '91 to '96 plan. You talk
17 about how you could link the map, Exhibit 2213B, to the
18 actual ground rules that that are contained in the most
19 recent Red Lake plan.

20 Could you just describe that to the
21 Board, how you made that connection?

22 MR. BAX: A. Just as a simple example,
23 then. If I go to the map, if I'm a canoeist or a
24 fisherman or whatever and I see they're going to
25 harvest these stands, I want to know what particular

1 treatments they are going to use. It's an SS5 or an
2 SS7. I go to the ground rules and see, okay, in this
3 location the fresh silty to clay soil site types which
4 they have classified under this description, they're
5 going to use -- their preferred treatment is for
6 planting of black spruce. That's the first option
7 with light mechanical scarification. So in my mind
8 right away is, this is what I can expect on that.

9 If they have to go to a second option
10 it's going to be something else. So I can get the
11 information.

12 If he had used a logging method --
13 because most of the people I find too that ask these
14 questions are very familiar with that particular area.
15 That's why they're asking these questions. So it's
16 important to have that level of detail and
17 traceability.

18 Q. In terms of -- I'm sorry, you said if
19 he had showed the logging method. What's indicated
20 under method of harvest?

21 A. Here, again, it's just clearcut so it
22 doesn't tell me anything. If he had showed full tree,
23 or tree length or shortwood I could right away
24 associate what type of equipment I could expect to see
25 there and whether that renewal treatment -- as a

1 forester I would right away look and say it is probably
2 a reason option that he has chosen. Sometimes it
3 isn't.

4 MADAM CHAIR: Excuse me, Mr. Bax. What
5 is difference between the two maps? Do you get fuller
6 information on the coloured map or is the same
7 information mapped on the photocopy?

8 MR. BAX: Same information basically,
9 yes.

10 MS. SEABORN: Q. Now, Mr. Bax, do you
11 have an example for the Board in respect of how
12 silvicultural prescriptions could be mapped?

13 We have looked at a couple of different
14 ways that MNR has done it. Have you given this matter
15 any thought?

16 MR. BAX: A. I did. I went back
17 actually to the -- I would like to go to my overhead
18 No. 10, to the bar chart, simply because --

19 Q. And the bar chart was used in which
20 plan?

21 A. The original '86 to '91 Red Lake
22 plan. It is the coloured map from Exhibit 2212A.

23 I simply inserted also the logging method
24 just to show it can be done using letters. For the
25 first I used a five -- five blocks in the bar chart

1 indicating the silvicultural system, the logging
2 method, the site prep method, the regen method and the
3 maintenance activities and showed it by simply
4 initiatives. Clearcut is CC, shelterwood is SW and
5 selection cut is SC and so on down the bar charts.

6 Under regeneration, if I plant I would
7 use a P, an S for seed and an N for natural.

8 I will just quickly flip through these
9 just so show you.

10 Q. This is overhead 11?

11 A. Overhead 11. Then I would start with
12 the silvicultural system, either shelterwood, selection
13 or clearcut.

14 Overhead 12. I would determine the
15 logging method and show it, again, by the initials,
16 shortwood, tree length, full tree, cut to length or
17 full tree chipping.

18 Site prep, again, chemical site prep,
19 prescribed burning, I would do nothing or use
20 mechanical site preparation.

21 Q. That was overhead 13.

22 A. Overhead 14 I would show planting,
23 seeding or natural. So that finally, again, I would
24 have a complete silvicultural package.

25 In my overhead 15, in this one, for

1 example, I know I'm going to clearcut, use a shortwood
2 logging method, mechanical site preparation, planting
3 and tending -- or thinning in this case. So you have a
4 complete package in a simple bar chart.

5 MADAM CHAIR: Where would this be
6 included, Mr. Bax?

7 MR. BAX: This would be on the maps.

8 That is an just example again elaborating on the Red
9 Lake -- the original Red Lake because they hadn't
10 included the logging method.

11 MADAM CHAIR: I see.

12 MR. MARTEL: I can't see from here. You
13 would just put those initials on, would you?

14 MR. BAX: That's correct.

15 MR. MARTEL: And your bar chart would
16 indicate what that is?

17 MR. BAX: That's correct.

18 MS. SEABORN: Q. What portion of the map
19 would the bar chart appear on?

20 MR. BAX: A. Whenever you have your
21 stands that you've allocated over the next five years
22 and you would have the arrows drawn to it or the
23 coding.

24 Q. Would you provide a legend similar to
25 the legends you looked at?

1 A. Yes, that's correct. In your legend
2 on your map you would show the acronyms that you're
3 using or the initials indicating the silvicultural
4 package.

5 MR. MARTEL: Would it be easier to show
6 it to the public if you did put it all in colour?

7 I notice one is in colour and one is not.
8 Is there a reason for that?

9 MR. BAX: This is just a photocopy, Mr.
10 Martel. The original was, I'm sure, colour coded as
11 well.

12 MS. SEABORN: We didn't have an
13 opportunity to get the original from Red Lake.

14 MR. MARTEL: That's fine. I just wanted
15 to know if the colouring would make it easier for the
16 public to understand and know where it is immediately.

17 MS. SEABORN: Q. How would these codes
18 relate, if at all, to the silvicultural ground rules in
19 Table 4.11?

20 MR. BAX: A. Well, that's where you
21 would originally get them from. Those codes would also
22 be listed in the ground rules showing the preferred
23 package and the components of those packages on the bar
24 chart in the ground rules.

25 Q. Now, Mr. Bax --

1 MADAM CHAIR: Excuse me, Ms. Seaborn.

2 We've had a suggestion, Mr. Bax -- and we
3 have had many complaints from the public that they
4 can't read maps, and I have great sympathy with
5 difficulties in reading maps.

6 One suggestion has been, is it possible
7 to do any of this display of information on aerial
8 photographs?

9 MR. BAX: Aerial photographs? You could,
10 but aerial photographs -- for example, a base map; this
11 probably comes from about 10 or 11 photographs. So you
12 would have to have a heck of a lot of photographs to
13 show it. So that that would be even more confusing, I
14 would guess, unless they blow up -- no, still.

15 Satellite imagery, you could do it in.
16 For example, the GIS systems that are now on stream in
17 a lot areas of the forests across the province, they
18 can be become very creative and very simple to make it
19 traceable and understandable.

20 MADAM CHAIR: Thank you.

21 Ms. Seaborn?

22 MS. SEABORN: Yes, Madam Chair. At the
23 outset of our evidence-in-chief we indicated that there
24 were a couple of areas we are going to update the Board
25 on with respect to discussions with MNR.

1 The mapping of silvicultural
2 prescriptions is one area where our technical people
3 have been having ongoing discussions with MNR and the
4 Industry.

5 In MOE's terms and conditions we had
6 proposed an amendment to MNR term and condition 32(a)
7 which is found at page 5 of the MOE's terms and
8 conditions. We have received a proposal from MNR with
9 respect to this term and condition that is certainly
10 acceptable to MOE.

I understand that the Industry is
considering their position with respect to the revised
term and condition.

14 I would just like to hand out the wording
15 and then have Mr. Bax briefly speak to the revised term
16 and condition. This is a one-page exhibit.

17 MADAM CHAIR: Do you want an exhibit
18 number for this, Ms. Seaborn?

19 MS. SEABORN: Yes, please, Madam Chair.

20 MADAM CHAIR: Exhibit 2214. Do you want
21 to put a date on this. Ms. Seaborn?

MS. SEABORN: That's a good idea.

23 MADAM CHAIR: I guess it is today's date,
24 isn't it?

---EXHIBIT NO. 2214: MNR term and condition 32(a)
revised.

MS. SEABORN: Q. Mr. Bax, could you describe for the Board briefly how you see this revised term and condition 32(a) impacting on the proposals that you put forward in respect of mapping?

MR. BAX: A. Okay. Originally we had indicated in 32(a)(3) on page 5 then that they map the preferred silvicultural packages contained in the silvicultural ground rules.

What we have tentatively come to an agreement on is we have replaced that with the top of the paragraph on Exhibit 2214. So that the locations in this case where the various site types described in the silvicultural ground rules are likely to be encountered within the areas of operations for the five-year term of the timber management plan will be recorded and mapped.

So what we're coming to -- my understanding is this second example then from the more recent Red Lake Crown Management Unit, coding the site types on the maps and having that coding also list in the ground rules so that we can track what package is going to be done where by site type.

Q. Mr. Bax, in your opinion is this

1 proposal satisfactory to meet the concerns that you
2 have addressed in your evidence this morning with
3 respect to mapping?

4 A. Yes, it would be. It would provide
5 that traceability from the map back to the ground rules
6 and all the way through back right up to the guides by
7 the site types. I feel it's a practical, simple way to
8 do it.

9 The second part, we had also a reference
10 in our Appendix 9 or recommendation which is on page 15
11 of my evidence. This is going back to Tab 2 in Exhibit
12 2200.

13 Q. Pages 14 and 15 is where you deal
14 with the mapping issue in your evidence-in-chief -- or
15 your written evidence?

16 A. That's correct.

17 MADAM CHAIR: Where are we, Ms. Seaborn?

18 MS. SEABORN: Pages 14 and 15 of the
19 witness statement, Tab 2.

20 MR. BAX: It just shows the first
21 appendix which -- or the first change, recommendation
22 which we have generally come to agreement on.

23 The second one is this listing of stands
24 allocated for depletion. What we're asking for there
25 is similar to what is already in the Timber Management

1 Planning Manual, the documentation required. They have
2 to list the stands and what we're asking for is that
3 the stands listings also include the silvicultural
4 packages. So, again, it provides for that
5 traceability.

6 MS. SEABORN: Q. Mr. Bax, just stopping
7 there. So Appendix 9, 1(k), the term and condition
8 that MOE has proposed that's found on page 15, that is
9 taken from another document you explained?

10 MR. BAX: A. Yes, that's from the timber
11 management plan in the appendices. They require -- one
12 thing that the documentation requires is a listing of
13 the stands that they're going to be harvesting over the
14 next five years. So all we're asking is that when they
15 include that --

16 Q. Can you provide the Board with a
17 reference to the manual, what page that's at?

18 A. That's page 109, I believe it is.

19 Q. Thank you. I'm sorry, you were
20 saying that you had however made a slight change to the
21 wording that's currently required by the Timber
22 Management Planning Manual with respect to that
23 appendix?

24 A. That's correct. We had asked that
25 the associated silvicultural package should be

1 indicated for each stand as well.

2 Q. How does this new term and condition
3 32(a) that's been proposed by MNR impact on this
4 suggestion made by MOE?

5 A. I'm sorry, how does it impact?

6 Q. How does MNR's proposal with respect
7 to 32(a) that you have endorsed, how does that impact
8 on our proposal with respect to 1(k)?

9 A. Well, the stand listing was important
10 to me and I believe to MOE also as well because it was
11 the only thing that gave us the tie-in from the map to
12 the particular stands.

13 Now with the agreement on 32(a) with the
14 Ministry of Natural Resources some of that objective
15 has been taken care of. So I would think -- it still
16 makes sense to know how much of the area, for example,
17 is allocated or associated with each site type rather
18 than at an open house going through 30 maps or 20 maps
19 to get idea of the impact or the area coverage of this
20 site type. There should still be a summary somewhere
21 available.

22 So I would think that this wording has to
23 be looked at or renegotiated in lieu of the fact that
24 we've come to an agreement or it looks like we're going
25 to come to an agreement on using site types as the

1 traceability.

2 So that summary wording that we have
3 looked for in Appendix 9 l(k) should be looked at in
4 light of this.

5 I have seen, for example, ground rules
6 where they list the percentage of the area, simply in
7 the ground rules. If you have an SS5 it indicates
8 another code. Sixteen per cent of the area of the
9 forest that you are looking at is covered by this site
10 type, and that right off away tells me or anybody the
11 significance of the particular site type. So that's
12 one easy way that you could do that.

13 Q. Is there any other comment you have
14 with respect to if l(k), term and condition l(k)?

15 A. I think I would just point out
16 that -- even in the evidence of Mr. Bisschop, quoting
17 Mr. Bisschop:

18 "For good environmental planning to
19 occur..." and I quote him,
20 "...it's necessary to trace the rationale
21 for decisions."

22 And to quote him:

23 "From the relevance science to the
24 decision being made and then to the
25 ground to the specific environment that

1 is going to affected."

2 We need to be able to go all the way from
3 the theory down to where it's going to occur on the
4 ground where the operations are going to occur. I
5 agree with that.

6 Q. Now, Mr. Bax, just in closing then,
7 in your opinion are MOE's terms and conditions
8 practical and achievable?

9 A. Yes, I believe they are.

10 Q. And are they, in your view,
11 consistent with good forestry practises?

12 A. Yes, they follow good forestry
13 practise. The terms and conditions, I believe, offer
14 an improvement in traceability and they are practical
15 to implement.

16 Examples that we have used can be drawn
17 from existing management plans across the area of the
18 province. So that shows that it is necessary and that
19 it can be done.

20 Q. In your opinion will they generate
21 additional work for the forester?

22 A. No, I don't believe so. There is
23 some extra work obviously that always is required, but
24 most of this information I believe is already
25 available.

1 Q. And where is that information
2 available?

3 A. Most of that information comes from
4 their project records, their summaries dealing with
5 their projects.

6 I guess the point I would want to make is
7 that that information has to be made available through
8 the timber management planning documents in a way that
9 it's understandable, it's easily traceable and it's
10 practical.

11 MS. SEABORN: Madam Chair, that concludes
12 Mr. Bax's oral evidence subject to any questions the
13 Board might want to ask him now and then we can move on
14 to Ms. Dahl.

15 MADAM CHAIR: Ms. Seaborn, is it
16 convenient for us to take our morning break now?

17 MS. SEABORN: That would be fine. Thank
18 you.

19 MADAM CHAIR: You would expect Ms. Dahl's
20 examination to be completed by lunch, if not before?

21 MS. SEABORN: I hope we can do it by
22 lunch, yes.

23 MADAM CHAIR: Okay.

24 Hello, Mr. Hanna, nice to see you again.

25 MR. HANNA: It is nice to be here, Madam

1 Chair.

2 MADAM CHAIR: It looks like you will be
3 on right after lunch.

4 MR. HANNA: Yes, Madam Chair.

5 MADAM CHAIR: All right, thank you.

6 ---Recess at 10:25 a.m.

7 ---Upon resuming at 10:50 a.m.

8 MADAM CHAIR: Please be seated.

9 MS. SEABORN: Madam Chair, I would like
10 to proceed now with the evidence of Ms. Dahl.

11 Q. Ms. Dahl, what issues do you address
12 in your witness statement?

13 MS. DAHL: A. I'm addressing three
14 issues in my evidence. These are involving the public
15 in decision making, the need for an index to
16 environmental assessment components of timber
17 management plans and bump-up.

18 Q. With respect to the first issue
19 involving the public in decision making, could you
20 briefly summarize MOE's position in relation to that
21 matter?

22 A. Yes. MOE is proposing that MNR
23 identify --

24 MADAM CHAIR: Excuse me, Ms. Dahl. Is
25 the microphone on?

1 MS. DAHL: Probably. I will try and
2 speak up.

3 MOE is proposing that MNR identify and
4 evaluate those areas which exist as options for
5 allocations during the second stage of public
6 consultation at the first information centre and we
7 have propose minor changes to MNR's proposed Appendix 4
8 to address this issue.

9 MADAM CHAIR: We are just having a little
10 bit of trouble hearing Ms. Dahl. I don't know if it is
11 the microphone or...

12 MS. SEABORN: There seems to be some
13 feedback from the microphone which is maybe making
14 matters worse rather than better.

15 MS. DAHL: I can try and speak up.
16 I have got a cold.

17 MADAM CHAIR: Sorry about this.

18 MS. SEABORN: I think there is a bit of
19 an echo from the microphone. Why don't we try and, Mr.
20 Martel, Madam Chair, let us know if you are having
21 difficulty as we go along.

22 Q. Now, Ms. Dahl, in respect of the
23 second issue, index to EA components, what are you
24 recommending to the Board?

25 MS. DAHL: A. I am recommending that MNR

1 incorporate an index to EA components in each timber
2 management plan and this index would indicate those
3 components of the plan which relate specifically to
4 environmental assessment matters.

5 Q. And the third issue you have
6 identified is the role of bump-up and what would be the
7 nature of your evidence in respect of bump-up?

8 A. The purpose of the evidence is to
9 explain the bump-up process; why it exists, how it
10 operates, how the ministry handles bump-up requests, to
11 set out MOE's position on bump-up and also to explain
12 two minor changes which we're recommending to the terms
13 and conditions on bump-up.

14 Q. I understand you have as well
15 prepared a series of overheads to assist in presenting
16 your evidence this morning?

17 A. Yes, I have.

18 MS. SEABORN: Madam Chair, if this series
19 of overheads could be marked as the next exhibit.

20 MADAM CHAIR: This will be Exhibit 2215.

21 MS. SEABORN: Thank you.

22 ---EXHIBIT NO. 2215: Overheads to be referred to
23 by Ms. Dahl.

24 MS. SEABORN: Q. Now, Ms. Dahl, are you
25 familiar with the Illing Report that has been filed as

1 Exhibit 2031?

2 MS. DAHL: A. Yes, I am. I've referred
3 to it in my evidence.

4 Q. In respect of the public consultation
5 process, was there some agreement among the parties
6 that resulted in proposed terms and conditions?

7 A. Yes. It's my understanding that
8 there was agreement reached on the four-stage public
9 consultation process and the purposes of those stages.

10 However, there was not agreement reached
11 on the information which needs to be presented to the
12 public at each of those stages of the process.

13 Q. Could you briefly explain for the
14 Board the four-stage public consultation process as you
15 understand it and the purpose of those stages?

16 A. Yes.

17 Q. You have put up your first overhead?

18 A. Yes. This overhead shows the
19 relationship of the public consultation stages with the
20 proposed planning review and approval process that MNR
21 has put forward.

22 The purpose of stage 1 is just to advise
23 the public that timber management planning is
24 commencing, to provide access to information which will
25 be used in timber management planning and also to

1 request contributions to the background information.

2 The purpose of stage 2 is to provide a
3 formal opportunity for the public to comment on the
4 assembly and analysis of the background information and
5 evaluation of alternatives, to generate additional
6 alternatives and also to request, again, additional
7 contributions to the information base.

8 Stage 3, the purpose there is to provide
9 an opportunity for the public to review and comment on
10 the proposed operations before MNR finalizes the draft
11 timber management plan.

12 The purpose of stage 4 is to advise the
13 public that timber management planning has been
14 completed for the forest management unit and to provide
15 another opportunity for the public to examine the
16 results of that process.

17 Q. Now, can you explain for the Board
18 the concerns that MOE has with respect to the
19 consultation process?

20 A. Yes, the Ministry of the Environment
21 agrees with the four-stage public consultation process
22 and with the purposes of those stages.

23 Our concern is that the information
24 that's proposed to be made available to the public at
25 stage 2 will not be adequate to achieve the purpose of

1 that stage which includes to generate additional
2 alternatives and gather comments on the alternatives.

3 Q. Has MOE suggested changes to the
4 terms and conditions of MNR to address this concern?

5 A. Yes, we have. The next overhead, I
6 have called this 2A. This sets out MOE's proposed term
7 and condition. This is from Appendix 4 of MNR's
8 proposed terms and conditions, point No. 2, and this is
9 the information that will be made available at stage 2,
10 the first information centre.

11 MOE is proposing, as you will see under
12 point A, to provide a brief description of the
13 advantages and disadvantages of options considered for
14 allocation for operations be presented to the public.

15 Q. On your overhead 2B --

16 A. Yes. This is a continuation of the
17 same term and condition and under 2(d) we have also
18 proposed that those options for allocations for
19 operations be identified on a summary map.

20 Q. Is this a map that MNR is proposing
21 be provided?

22 A. Yes. MNR has proposed to provide a
23 map summary of the operations.

24 MADAM CHAIR: Excuse me. Is that the
25 same -- Mr. Freidin?

1 MR. FREIDIN: All right.

2 MADAM CHAIR: Is that the same map of
3 operations that Mr. Bax was referring to?

4 MS. DAHL: No. Mr. Bax was referring to
5 the areas selected for operations.

6 So this, I understand, will just be a
7 summary of the operations proposed for the forest
8 management unit for the five-year term.

9 MADAM CHAIR: On a map?

10 MS. DAHL: Yes. It is under MNR's
11 proposed terms and conditions 2(d) as well. They
12 identify the summary map. I understand that the
13 summary map will be on a different scale. In other
14 words, it would probably show the entire forest
15 management unit on a single map.

16 MS. SEABORN: Q. Now, returning just to
17 overhead --

18 MR. MARTEL: Can you stop there for a
19 moment. What's the difference between what you are
20 asking? You say MNR in their Ts and Cs are offering a
21 summary map. They are just putting their final
22 selection where you want the various options to be?

23 MS. DAHL: Yes, that's right.

24 MS. SEABORN: Q. Now, Ms. Dahl, can you
25 describe then for the Board the information that MNR is

1 proposing to display to the public with respect to
2 allocations at stage 2?

3 MS. DAHL: A. Okay.

4 Q. I understand you have put up a number
5 of maps.

6 A. With respect to allocations, it is my
7 understanding that the first map that the public will
8 be presented with at this stage is the eligibility map
9 and it's a map or a number of maps of the forest
10 management unit. It sets out the areas eligible,
11 ineligible for operations for the 20-year period.

12 This top map here is an example of an
13 eligibility from the Brightsand Forest.

14 MS. SEABORN: Perhaps we can mark that as
15 an exhibit, Madam Chair.

16 MADAM CHAIR: This will become Exhibit
17 2216.

18 MS. DAHL: This map is for the period
19 from 1989 to 2010.

20 MR. FREIDIN: To when?

21 MS. DAHL: 2010.

22 MR. FREIDIN: Thank you.

23 MADAM CHAIR: This is the Brightsand...

24 MS. DAHL: Forest, yes.

1 ---EXHIBIT NO. 2216: Map depicting areas of
2 eligibility and ineligibility for
3 operations for the 20-year
4 period, 1989-2010, taken from the
5 Brightsand forest management
6 unit.

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MS. DAHL: As you can see looking at this map it's fairly complex and crowded and there is a lot of information on it and it would probably be difficult for a member of the public to look at this map and easily understand what it represents.

MS. SEABORN: Q. Now, in addition to the eligibility map, what other map would be provided to the public according to MNR's proposal at the first information centre?

MS. DAHL: A. The next map in relation to allocations would be the area selected for operations map and that's a map that shows the proposed operations for the five-year term of the plan.

Q. Do you have an example of that as well?

A. Yes. This is also from the Brightsand Forest and it is called a stand allocation map and it basically shows the stands that have been allocated for the five-year period. I believe it also shows access roads.

MS. SEABORN: Perhaps we could mark this

1 map, Madam Chair, 2216B.

2 MADAM CHAIR: Yes.

3 MR. FREIDIN: That's the scale on that
4 allocation map?

5 MS. DAHL: This is a 1:63,360. I believe
6 it is the same as the eligibility map.

7 ---EXHIBIT 2116B: Stand allocation map taken from the
8 Brightsand forest management unit.

9 MS. SEABORN: Q. Ms. Dahl, there is
10 another map that you have put up as well.

11 MS. DAHL: A. Yes. MNR has also
12 proposed, as I said, to provide a summary map and the
13 summary map I understand will be included in the timber
14 management plan summary. So I'm assuming that it is a
15 map on a larger scale.

16 In other words, it would probably show
17 the whole forest management unit on a single map as
18 opposed to a series of maps.

19 I have here -- it is called a depletion
20 allocation map also from the Brightsand Forest and it
21 is my understanding that the summary map would be
22 somewhat similar to this. This map shows the actual
23 allocations for the entire forest management unit in
24 the five-year term.

25 Q. Is that map from the Brightsand

1 Forest as well?

2 A. Yes, it is.

3 MS. SEABORN: Perhaps we can mark that as

4 Exhibit 2216C.

5 MR. FREIDIN: What's the scale of that
6 map?

7 MS. DAHL: This is 1:250,000 map.

8 MR. FREIDIN: Thank you.

9 ---EXHIBIT NO. 2216C: Map depicting depletion
10 allocations taken from the
Brightsand forest management
unit.

11

12 MS. SEABORN: Q. Now, Ms. Dahl, you have
13 put up three maps. Could you describe for the Board
14 what your concern is with respect to the information
15 that would be provided to the public in respect of
16 allocations?

17 MS. DAHL: A. Yes. Simply put, somehow
18 the planning team or the forester are making decisions
19 when they go from this broad level eligibility map
20 which shows eligibility for the 20-year period to this
21 area selected for operations map for the five-year
22 period.

23 There are some decisions being made in
24 here and these are the decisions which MOE is proposing
25 should be made available at the first information

1 centre.

2 MADAM CHAIR: Excuse me, Ms. Dahl.

3 Exhibit 2216A is for the 20-year period?

4 MS. DAHL: Yes, it is.

5 MADAM CHAIR: And then B is for the
6 five-year period?

7 MS. DAHL: Five-year operations.

8 MADAM CHAIR: And C is also for the
9 five-year operations?

10 MS. DAHL: Yes. So the concern is that
11 the decision is being made when you go from the broad
12 eligibility to the detailed five-year selection of
13 operations, and I believe that that is a significant
14 decision because the decision on where you operate
15 basically sets the framework for the remainder of the
16 decisions which will follow. In other words, where you
17 need to access, carry out renewal, maintenance. They
18 are all inter-related.

19 I would also add that at this first
20 information centre MNR is also proposing to present
21 alternatives for access roads and alternative
22 prescriptions for areas of concern.

23 I would just comment that access is only
24 one of the four activities identified as comprising
25 timber management and I guess I don't see any reason

1 why you would want to present alternatives for access
2 but not for these other operations which are also quite
3 important.

4 MS. SEABORN: Q. Now, you state in your
5 evidence that the options considered for allocations
6 should be mapped. Could you explain to the Board what
7 you mean by that?

8 MS. DAHL: A. Yes. We're not asking for
9 a new map to be created. I think that this proposal
10 can quite easily be accommodated on a summary map.

11 It would simply be an outline of the
12 areas which are available and which meet the selection
13 criteria and they would just be shown in summary form
14 on that map.

15 Q. Could you provide the Board with an
16 example of how you see the MOE proposal being carried
17 out?

18 A. Yes. I will just demonstrate this.
19 If we assume that this is the summary map for the
20 forest management unit --

21 Q. This is the box that you have drawn
22 on the flip chart--

23 A. Yes.

24 Q. --is the summary map?

25 A. Yes. MNR is proposing to show the

1 areas which have been selected for operations including
2 a contingency area, and what we're basically saying is
3 that we believe that there will likely be other areas
4 which are also eligible and which meet the selection
5 criteria, but which may not have been chosen for
6 whatever reason.

7 Q. And you have drawn those areas in --

8 A. These areas I have drawn in blue. We
9 can assume that these are other areas that are eligible
10 and meet the selection criteria and for whatever reason
11 they haven't been chosen.

12 We're just saying that the public would
13 be -- I think would be interested in knowing how you
14 got from your eligibility map showing everything for
15 the 20-year period to the selection of these specific
16 areas drawn in black and why these other areas, if they
17 exist, were not chosen and that's what we're asking to
18 be documented at this information centre.

19 Q. Now, you indicate in your written
20 evidence a discussion of the advantages and
21 disadvantages. How would these advantages and
22 disadvantages be documented at the public information
23 centre?

24 MS. DAHL: A. In order to demonstrate
25 that decision to the public we suggested that the

1 advantages and disadvantages of operating in each of
2 those different areas should be described for the
3 public, and I would envision probably something like
4 maybe the size of the flip chart setting out the
5 different areas with a point-form discussion of the
6 advantages and disadvantages of going into those
7 different areas to conduct your operations.

8 Q. Now, just stopping there. When you
9 have say those different areas, you are indicating the
10 areas on the flip chart that you have drawn in black as
11 well as the areas you have drawn in blue and the
12 contingency area?

13 A. That's right. It would be all of the
14 options that are available.

15 Q. What is your understanding now of,
16 going back to the flip chart, exactly what is provided
17 to the public at information centres and what will be
18 provided to the public based on MNR's terms and
19 conditions?

20 A. The only thing that would be provided
21 to the public is those areas which have, in fact, been
22 selected for operations for the five-year period
23 without a discussion in any formal way that I'm aware
24 of of why they were selected.

25 Q. Those would be the areas drawn in

1 which colour on your example?

2 A. On my example on the flip chart those
3 were the areas which I drew in black originally.

4 MR. MARTEL: Can I ask a question because
5 under the old method that would seem to me to be the
6 case, but under the new planning proposal where you are
7 involving the planning team you are providing the
8 stakeholders' committee and you are providing for
9 discussions, and there is agreement on this, between
10 the public, the Ministry and the stakeholders'
11 committee, the information which at one time was
12 pretty -- almost non-existent, even though it doesn't
13 show up.

14 With all of those discussions which have
15 transpired or according to the agreement which has been
16 reached, does that not reduce the concern to some
17 degree?

18 MS. DAHL: I understand that the local
19 citizens' committee would be more involved in those
20 kind of discussions, but I still think there is a need
21 to just document that, provide some sort of summary of
22 that at this information centre so that the general
23 public has a better understanding of what's been done.

24 MADAM CHAIR: Now, can I understand then
25 from the map you have drawn by hand, those are still

1 just the areas eligible for operations?

2 MS. DAHL: They are areas eligible which
3 also meet the selection criteria. So there will be
4 criteria defined that the stands have to meet.

5 MADAM CHAIR: Right. Now, that other
6 map, the small map, Exhibit 2216C--

7 MS. DAHL: Yes.

8 MADAM CHAIR: --explain to me again what
9 that map would be or is.

10 MS. DAHL: It would be a summary map
11 showing the proposed operations for the five-year
12 period. In other words, the harvest -- well, actually,
13 I think on this map the orange and brown areas are the
14 allocations and the purple represents the areas of
15 blowdown and these blue areas are contingency areas.

16 So it's a summary for the whole forest
17 management unit of what the proposed operations are.

18 MADAM CHAIR: Over 20 years?

19 MS. DAHL: Over five years.

20 MADAM CHAIR: Over five years. Then how
21 do the eligible areas as you are suggesting fit in with
22 the allocation?

23 MS. DAHL: They would probably just be
24 outlined on this map with perhaps --

25 MADAM CHAIR: They will be contained

1 within those allocate areas?

2 MS. DAHL: Some of them would be
3 allocated areas, some of them may not be because they
4 haven't been chosen.

5 MS. SEABORN: Q. Ms. Dahl, how do the
6 black areas that you have drawn on the flip chart
7 relate to the summary map that Madam Chair was just
8 asking you about?

9 MS. DAHL: A. Those would be the orange
10 and brown areas that are shown on this summary map and
11 the contingency areas as well.

12 Q. So how would the blue areas that you
13 have also drawn relate, if at all, to the summary map
14 under your proposal?

15 A. What we are proposing is that they
16 would also be included on this map and identified as
17 options. It's just a relatively simple way of showing
18 what you have considered without having created a new
19 map.

20 Q. Now, in terms of the advantages and
21 disadvantages, what level of detail are you suggesting
22 be provided?

23 Q. There is an example in the witness
24 statement on pages 8 and 9 that just shows the level of
25 detail. It is behind Tab 3, pages 8 and 9.

1 It is just basically a point-form listing
2 of those main advantages and disadvantages of operating
3 in each area. We are not suggesting that any sort of a
4 really detailed analysis is required at this level.

5 Also, I understand that there has been
6 some confusion resulting from the example in here and I
7 just wanted to clarify that. This example is only
8 intended to show the level of detail that we're
9 contemplating and it's not actually intendd to be a
10 realistic example. That's what the demonstration on
11 the flip chart is.

12 Q. Now, at page 8 of your witness
13 statement you refer to the null alternative. Can you
14 explain how the null alternative would fit into the
15 determination of advantages and disadvantages?

16 A. Yes. In order to understand the
17 significance of your advantages and disadvantages you
18 have to consider the null alternative in each of these
19 areas. In other words, what would be the condition of
20 the environment if no operations took place there over
21 the next five-year period, and then you compare that to
22 your advantages and disadvantages to the environment.

23 So the null just acts as a baseline and
24 it allows you to understand the significance better of
25 your advantages and disadvantages.

1 MADAM CHAIR: Excuse me, Ms. Seaborn. Is
2 the Board to take it then that the Ministry of the
3 Environment has the opposite viewpoint of MNR with
4 respect to analysis of the null alternative with
5 respect to each timber management plan?

6 MS. SEABORN: I don't think it could be
7 characterized as an opposite viewpoint. I think we
8 have a difference of opinion as to the extent to which
9 the null alternative should be considered when you are
10 considering alternatives. There is a difference there.

11 MADAM CHAIR: In a class environmental
12 assessment or an individual timber management plan?

13 MS. SEABORN: At this point we are not
14 talking here about 'alternatives to' in the classic
15 context of the Class EA. That's not what we are
16 dealing with when preparing a Class EA where you deal
17 with 'alternatives to.'

18 I think that Ms. Dahl should actually go
19 on and explain this, but her position is with respect
20 to consideration of the null as a baseline -- not as an
21 alternative in itself, but as a baseline or a
22 comparison for selecting your preferred alternative.

23 MADAM CHAIR: Well then, are you agreeing
24 with the Coalition's argument that every local
25 citizens' committee for each timber management plan can

1 sit down and say: We want to look at not doing timber
2 management in this unit? That's one alternative we are
3 looking at. We won't do timber management here, we
4 will only do cottaging or something else.

5 MS. DAHL: No, that's not what we're
6 saying.

7 MADAM CHAIR: That's not what you are
8 saying either?

9 MS. DAHL: No. It's just when -- in the
10 Environmental Assessment Branch we tend to advise
11 proponents that whenever you are looking at different
12 alternatives and have to make a decision between them
13 there is benefit in looking at the null alternative in
14 order to get a better understanding of what the
15 condition of the environment would be if you didn't
16 proceed with each of your alternatives.

17 It just allows for a better understanding
18 of your advantages and disadvantages when you're making
19 that decision.

20 MADAM CHAIR: But what if the local
21 citizens' committee said that advantages of the null
22 alternative looked to be the best to them, that that's
23 the way they want to go? They don't want to look at
24 going ahead with any kind of timber management
25 operation.

1 MS. DAHL: I could see that being done in
2 one of these specific areas or two of these specific
3 areas where you may decide that the advantages of
4 proceeding are not that great and that maybe you
5 shouldn't carry out operations for this five-year
6 period, you should focus the operations on some of the
7 other options available in the unit.

8 Then you may actually apply the null
9 alternative in that local area for that five-year
10 period, but it's not a consideration of not operating
11 at all in the entire forest management unit.

12 MADAM CHAIR: Well, it sounds pretty
13 close to the Coalition's argument I think with respect
14 to looking at something called the null alternative
15 where you don't do timber management.

16 MS. DAHL: The purpose I guess that we
17 are saying you use the null here is just to gain a
18 better understanding of what the present and future
19 conditions of that local environment would be if you
20 didn't carry out those operations.

21 MS. SEABORN: Q. Ms. Dahl, in
22 considering the disadvantages and disadvantages and say
23 you applied your null with respect to the options that
24 you have listed on the flip chart, the options in blue
25 and the options in black, and if you came to a

1 determination that the disadvantages outweighed the
2 advantages, what would be the impact over the 20-year
3 period of the plan with respect to that allocation?

4 MS. DAHL: A. Okay. As I just said,
5 when you consider your advantages and disadvantages you
6 may decide that for this five-year term of the plan you
7 are not going to operate here or here or here, that you
8 can get the necessary allocations from these other
9 areas.

10 So, in effect, you are actually applying
11 these the null alternative in these areas for the
12 five-year period, but five years from now when you do
13 your next five-year plan for this forest management
14 unit, if these areas again are considered eligible and
15 meet your selection criteria then you would consider
16 them all over again.

17 MADAM CHAIR: So they are not eliminated
18 from consideration in subsequent five-year terms of the
19 plan?

20 MS. DAHL: No, definitely not. You may
21 just decide that for this five-year term there is no
22 real advantage to operating in these areas, so you are
23 just going to focus on these areas and you may
24 reconsider them again the next time around.

25 MS. SEABORN: Q. Now, Ms. Dahl, what do

1 you believe presenting the options such as you have set
2 them out on the flip chart -- what do you believe
3 presenting these options to the public will achieve?

4 MS. DAHL: A. By documenting the options
5 you allow for meaningful public comment on these
6 alternatives which, in turn, meets the purpose of this
7 information centre which was agreed to by all parties
8 and is shown in the Illing Report.

9 The purpose of it includes getting public
10 comment on the alternatives and generating additional
11 alternatives. By presenting these options in the brief
12 discussion you generate discussion early in the
13 planning process before any irreversible decisions have
14 been made and you get public input into those
15 decisions.

16 I would just add that I think public
17 consultation is a conflict resolution strategy and it
18 should be recognized as being that, and by presenting
19 these options it will allow you to make your public
20 consultation more effective and it should assist in
21 reducing conflicts and controversy later on.

22 Q. Now, in your opinion would this
23 proposal create a lot of additional work?

24 A. No, I don't think so. I think the
25 planning team and the forester are probably already

1 going through this exercise, if only in their heads.
2 They are mentally considering where they are going to
3 focus the operations.

4 Q. Why do you say exactly that they must
5 be going through or they are already going through this
6 process in their heads? What leads you to that
7 conclusion?

8 A. Well, because they start out with an
9 eligibility map that shows all of the areas eligible
10 and somehow they have to select the areas where they
11 are going to focus the operations. So I think that
12 this sort of consideration takes place in that decision
13 on where to focus the operations.

14 We're just asking for that decision
15 really to be documented in a brief way to allow for
16 public input into that decision.

17 As I explained, the work that it entails
18 is just showing your options on a map, briefly
19 outlining the advantages and disadvantages in different
20 areas and listing them probably in point form on a
21 chart or something beside the map.

22 I also discussed this proposal with Mr.
23 Bax to get his opinion as a forester and he has advised
24 me that you could probably do something like this in
25 about half a day, an afternoon or so.

1 Q.. Is that correct, Mr. Bax?

2 MR. BAX: A. Yes. I think as Ms. Dahl
3 indicated this is a process the foresters have to go
4 through anyhow and it's simply a matter of listing in a
5 simple manner the reasons for it.

6 MADAM CHAIR: And, of course, the
7 important aspect of this proposal is that it is not
8 just a tool to explain to the public how the preferred
9 eligible areas were arrived at. It has got to be a
10 genuine opportunity for the public to say: No, we
11 don't want A, we want B.

12 MS. DAHL: Right. In the term and
13 condition that MNR has proposed we -- it is the
14 Ministry's preference that you don't actually identify
15 your preferred alternatives at this first public
16 consultation information centre.

17 However, we have recognized that in some
18 cases the local circumstances may warrant that the
19 preferred areas be identified or the local public may
20 wish to have them identified so that they have an idea
21 of what the MNR or the Industry preferences are.

22 So we have said in the term and condition
23 that that can be done at the discretion of the plan
24 author or the planning team, but we would recommend
25 that you wait until get the public before you make

1 these final decisions.

2 MS. SEABORN: Q. Now, Ms. Dahl, why do
3 you believe that this is a reasonable proposal that you
4 put forward?

5 MS. DAHL: A. Well, I don't think there
6 is an awful lot of work involved. I believe it's quite
7 reasonable.

8 I would also add that I think it's
9 unreasonable to make this kind of a decision and not
10 tell the public how you made it or on what basis you
11 made it and not allow any input into it.

12 I think there are obviously some areas
13 which exist as options and that is demonstrated by the
14 selection of a contingency area which is an eligible
15 area that also meets the selection criteria.

16 Q. On your flip chart that's the area
17 that you referred to with a C?

18 A. Marked with a C, right. That's an
19 area that would be harvested in case of natural
20 disaster or insect infestation or whatever reasons.

21 I wanted to just refer the Board briefly
22 to the Timber Management Planning Manual on page 8 of
23 the manual.

24 Q. Page 8 of the Timber Management
25 Planning Manual which is Exhibit 7?

1 A. Yes.

2 MADAM CHAIR: Do you have an excerpt from
3 that, Ms. Dahl?

4 MS. SEABORN: No, we don't. Do you have
5 the manual in front of you?

6 MADAM CHAIR: Yes, we do.

7 Q. I'm sorry, Ms. Dahl, you were
8 directing us to page 8 of the manual?

9 MR. DAHL: A. Yes.

10 Q. Which portion?

11 A. Just the third paragraph there, the
12 first sentence where it says that:

13 "For a large part of the planning
14 exercise the consideration of
15 alternatives will go unrecorded. Only
16 the final decision of which factor will
17 be used or which course of action will be
18 taken will be documented in the plan."

19 I just wanted to point out that out and
20 say that this decision on where to operate for the
21 five-year period appears to be one of those decisions
22 which is not documented.

23 I believe it's an important decision, it
24 is of interest to the public and it should be
25 documented. It requires documentation and rationale so

1 the public can understand that decision.

2 Q. Now, Ms. Dahl, during the scoping
3 session the Board asked for an explanation from you of
4 why MNR would oppose presenting these options to the
5 public. Can you comment on that for the Board today?

6 A. Well, the only information that I
7 really have to rely on I guess is the MNR terms and
8 conditions and also the reply evidence that's been
9 filed to date, and I have read the reply evidence and
10 in there I have seen two concerns which I think relate
11 to this proposal.

12 In Panel 1, MNR stated a concern that if
13 they are not allowed to identify the areas of
14 operations early in the planning process then they
15 can't carry out the detailed evaluation of access
16 alternatives and the operational prescriptions for
17 areas of concern.

18 Then also in Panel 4, MNR raised the
19 concern there that the null alternative is
20 inappropriate to consider except as an alternative to
21 the undertaking and that to consider the null
22 alternative at the forest management unit level would
23 constitute a land use decision.

24 Q. Now, I want to deal with both of
25 these concerns. With respect to the first concern, how

1 would MOE's proposal impact on MNR's proposal for
2 access, planning and AOC planning?

3 A. I don't think it has to impact on
4 those planning activities. I guess first I would
5 comment that in my opinin it is inappropriate to be
6 doing a really detailed examination of alternatives
7 this early in the planning process. This is the first
8 formal opportunity for the public to see what's being
9 proposed.

10 Environmental planning involves decision
11 making that progressively narrows your alternatives.
12 In other words, you start out with a broad number of
13 alternatives and you consider those at a more general
14 level and as you narrow your alternatives you
15 progressively evaluate them with more and more detail.

16 I think the consideration of alternatives
17 at this stage of the planning process should be at a
18 more general level and there are also many different
19 ways of looking at alternatives in terms of the range
20 and scope -- or level of detail. There is lot of
21 different ways you can do this planning.

22 Q. Could you just quickly provide an
23 example of what you mean?

24 A. I have given some thought to the
25 access planning and area of concern planning and

1 different ways that that might be done.

2 First of all with respect to access. I
3 want to comment that in this proposal access would have
4 to be considered at a general level. In other words,
5 when you are looking at the advantages and
6 disadvantages of operating in these areas access is
7 obviously one thing that you are going to consider; how
8 easily can you access the area, how much would it cost.

9 It might also be possible to look at
10 access corridors to different areas as alternatives at
11 this stage of planning. You could do it that way.

12 As we said in the term and condition that
13 we have proposed, MNR would have the option of
14 identifying their preferred areas and if they do that
15 they may choose just to examine access for those
16 preferred areas. Those are different ways you can look
17 at it at this stage of planning.

18 With respect to the areas of concern, I
19 understand that the values map will have been prepared
20 and they will have a fairly good idea of where the
21 areas of concern exist, and as for access, that's
22 something that should also be considered when you're
23 looking at the advantages and disadvantages of the
24 different areas.

25 MADAM CHAIR: Excuse me, Ms. Dahl. So

1 that I understand with respect to what would be a broad
2 alternative with respect to access, would it be
3 something along the lines of: We could use a primary
4 road that was already under construction for these
5 areas of eligibility or, alternatively, we could
6 construct a new primary road going off in another
7 direction?

8 Would that be a broad alternative of
9 access at this stage?

10 MS. DAHL: Yes. I guess you would be
11 looking more at corridors at a broader level.

12 MADAM CHAIR: Yes.

13 MS. DAHL: Yes, different areas where
14 they could come from. It doesn't need to be a very
15 detailed analysis this early. Once you narrow it down
16 to your preferred corridor, then you can start looking
17 at the more detailed alternatives as you progress.

18 MS. SEABORN: Q. When you spoke about
19 the advantages and disadvantages of operating in the
20 areas set out on the flip chart, would you include
21 access or the existence of AOCs from a values map in
22 that?

23 MS. DAHL: A. You might. I mean, if
24 those are important factors in your decision then, yes,
25 you would.

1 ---Discussion off the record

2 MADAM CHAIR: Ms. Dahl?

3 MS. SEABORN: Q. Ms. Dahl, you were
4 dealing with the concern raised by MNR in their reply
5 with respect to AOC planning and you dealt with access
6 planning before that. Do you see MOE's proposal as
7 having an impact on these activities?

8 MS. DAHL: A. No. I think the purpose of
9 this information centre has to be kept in mind, which
10 is to generate additional alternatives and comment on
11 those alternatives.

12 I think that MNR has accepted the risk
13 that if the public presents a good case for another
14 alternative then they have to go back and re-examine
15 that alternative in any event, and that that prospect
16 is acknowledged and the purpose of the information
17 centre is set out in their term and condition 8(a) and
18 that this term and condition is part of the Illing
19 Report. It's something that all of the parties have
20 agreed to.

21 I don't think this proposal has to affect
22 either of those planning activities. As I said, there
23 are lots of different ways of looking at alternatives.

24 MOE certainly recognizes the need to be
25 flexible and I think we would leave that with the

1 planning team to determine how the planning should
2 proceed, you know, based on what makes sense for the
3 forest management unit that they are dealing with.
4 There will be variation between forest management units
5 and I think that they can deal with the access planning
6 and areas of concern in whatever manner they think
7 makes the most sense.

8 Q. Now, Ms. Dahl, you also referred to
9 MNR's reply evidence with respect to the null
10 alternative, and just following on from the Board's
11 questions with respect to our use of the null
12 alternative, could you just go through for me again
13 your opinion with respect to MNR's concern about the
14 use of a null alternative?

15 A. Okay. As I was saying earlier, I
16 think that you have to consider the null alternative in
17 a specific area in order to understand the advantages
18 and disadvantages of operating in that area, that it
19 provides your benchmark against which you compare the
20 advantages and disadvantages of proceeding.

21 Using the null alternative as a
22 benchmark, it is really just a way of looking at the
23 present and future conditions of the local environment
24 against which your alternative can be compared.

25 It's also a way of demonstrating to the

1 public what the effects to the environment of that
2 alternative are and you have to show that the
3 advantages of proceeding in that local area outweigh
4 the disadvantages of not proceeding.

5 Q. Are you suggesting that the null
6 alternative be applied at the forest management unit
7 level?

8 A. No, that's already been done in the
9 Class EA document when MNR considers the null as an
10 alternative to timber management.

11 Q. In light of that answer then, why do
12 you suggest that the null alternative also needs to be
13 considered when activities are being planned?

14 A. Okay. If we assume that MNR has
15 demonstrated that there is a need for timber management
16 in the area of the undertaking and that the null
17 alternative is not a reasonable alternative to timber
18 management, that does not mean that they have
19 demonstrated the need to carry out specific timber
20 management activities at a specific location at a
21 specific point in time.

22 I think to suggest that the Class EA
23 approval takes those kinds of questions right off the
24 table is to make a tremendous leap in faith.

25 I think at this point in time today the

1 need to carry out those specific activities in a
2 certain location and at a certain time has not yet been
3 demonstrated and that is particularly important when
4 you consider that the environment is not static and
5 that the environmental effects of those activities are
6 going to vary over time in a particular location.

7 Simply, the null alternative is the
8 instrument that allows you to demonstrate that need to
9 carry out those specific activities at that location at
10 that point in time when they are proposing to do them.

11 In all Class EAs I think the null
12 alternative needs to be considered at the project
13 planning level whether it's done explicitly or just
14 implicitly when you are making those decision.

15 Q. Now, is it your opinion --

16 MADAM CHAIR: Excuse me. I am not
17 arguing the point of what you are saying, but we have
18 heard obviously a great deal of evidence, as you know,
19 Ms. Dahl, about the ability to supply timber province
20 wide, the ability to produce a certain amount of timber
21 annually, and you are saying that looking at the null
22 alternative at a TMP level doesn't have any effect on
23 that?

24 MS. DAHL: First I would say you're
25 looking at the null alternative within the TMP. It's

1 not really at that level.

2 The timber management plan would have a
3 set level of wood that they require for that five-year
4 period and that's a given. I mean, they have to try
5 and achieve those objectives. So that your
6 alternatives that you look for the areas that you are
7 going to allocate, obviously that's a consideration, is
8 that you want to try and meet that objective.

9 I guess this would really apply best I
10 think in those cases where you have eligible timber far
11 in excess of what you require and you have to make a
12 decision on where you are going to take it from for
13 that five-year period. It's simply looking at your
14 options and deciding for that five-year period what's
15 the best areas to get that from.

16 MADAM CHAIR: And in areas where you have
17 an uncertain timber supply?

18 MS. DAHL: There may not be realistic
19 options and that's fine. I mean, what we're really
20 just saying is where those options do exist and you
21 have to make those decision, then you should document
22 it and these considerations should go into it.

23 MADAM CHAIR: I guess what I am trying to
24 decide is, as a member of the public I would expect
25 under this proposal to have the right in any timber

1 management plan anywhere in the area of the undertaking
2 to intervene and say: Well, the null alternative here
3 is really the superior one and we shouldn't have to be
4 bound by ignoring it or being allowed to look at it by
5 the circumstances of wood supply or anything else.

6 MS. DAHL: Maybe I'm not, I guess,
7 explaining it clearly. When I say the null
8 alternative, it's not a suggestion that the null
9 alternative means not operating on that forest
10 management unit.

11 MADAM CHAIR: But if it is by far the
12 superior alternative?

13 MS. DAHL: In one specific area?

14 MADAM CHAIR: Maybe in all areas. I
15 don't know.

16 MS. DAHL: I don't think it would be all
17 in areas. I mean, obviously there is a need to supply
18 the forest industry with wood.

19 It's really just -- it's a process that
20 assists in making that selection of where you are going
21 to get the wood from and that the public would have
22 input into the advantages and disadvantages of the
23 different areas, but I think it's a given that you have
24 a set amount of wood that you require from unit and you
25 have to get it from somewhere.

1 MADAM CHAIR: I think what my confusion
2 is, is over four years we have heard evidence about
3 different types of null alternatives, if I can put it
4 that way, and that has to do with respect to the Class
5 EA and how it was developed and now we are talking
6 about the null alternative as a planning tool or public
7 a consultation tool?

8 MS. DAHL: It's a decision-making tool, I
9 guess.

10 MADAM CHAIR: Because you want the public
11 to be involved in decision making. You don't want them
12 to rubber stamp something that MNR has planned. You
13 want them to have a meaningful participation in
14 deciding where timber operations will take place.

15 MS. DAHL: Yes. I think maybe because
16 there has been so much concern raised about the null
17 alternative and there is so much confusion about what
18 it means that I'm probably over-emphasizing its role in
19 this process.

20 It may not even be necessary to
21 specifically document the null alternative. We're just
22 saying that when you are looking at the advantages and
23 disadvantages of operating you have to consider what
24 the condition of the environment is and what it will be
25 over the next five years.

1 MR. MARTEL: Wouldn't you do that

2 everywhere, though?

3 What worries me is it seems to me you are
4 being selective. In certain areas if there is no wood
5 you can -- if maybe there is not a guarantee of wood
6 you ignore it, but if you have got lots of wood then
7 you can consider it and it leaves the whole process
8 pretty iffy, that you pick and choose whenever it's
9 convenient.

10 I don't think we are faced with that
11 option, to pick our areas depending on the conditions.
12 I think you have to pick them when you are looking at
13 the environment per se and the overall planning, but to
14 say on this plan we can do this, but it is not
15 applicable somewhere else.

16 MS. DAHL: That may be the actual case
17 based on the forest management units.

18 MR. MARTEL: Wouldn't it apply all over
19 then? You can't pick and choose, can you?

20 MS. DAHL: Well, in those areas where you
21 don't have those options, then you are obviously not
22 going to be making these kinds of decisions. So it
23 wouldn't really apply there.

24 MR. MARTEL: In every unit you are going
25 to have to make that decision, aren't you, that in

1 every unit the environment must be considered?

2 You can't say I'm going to ignore it here
3 because of certain conditions. You are going to have
4 to look at all of the factors all the time.

5 MS. DAHL: I guess I would just add that
6 by listing your advantages and disadvantages that's a
7 way of documenting, that you have to consider the
8 environment in those areas.

9 MADAM CHAIR: Ms. Dahl, I'm just a little
10 confused. Is there a specific term and condition that
11 MOE is proposing to deal with -- do you mention looking
12 at the null alternative as a term and condition?

13 MS. DAHL: No. It's just looking at
14 options.

15 MADAM CHAIR: You are discussing it in
16 reference to the Ministry of the Environment's interim
17 guidelines and environmental assessment planning and
18 approval?

19 MS. DAHL: Yes. It is just -- we
20 wouldn't explicit say that you have to consider the
21 null alternative. We are saying you should look at
22 options and it is just a suggestion that the ministry
23 generally makes, is whenever you are looking at
24 alternatives you should keep in mind what we call the
25 null alternative in that situation which is basically

1 what would the condition of the environment be if you
2 don't proceed with your activities.

3 MS. SEABORN: Q. Ms. Dahl, just
4 following on from the questions from the Board. In
5 your opinion would the consideration of the null in
6 evaluating your advantages and disadvantages and the
7 way you have explained them with the flip chart result
8 in a land use decision?

9 MS. DAHL: A. No, that land use decision
10 is made in the District Land Use Guidelines when they
11 say that forestry is a permitted operation.

12 The null alternative in this case just
13 allows you to demonstrate what the effects on the
14 environment will if proceeding with your activities.

15 It allows you to just to demonstrate that
16 the advantages of proceeding outweigh the disadvantages
17 of not proceeding.

18 ---Discussion off the record

19 MS. SEABORN: Q. Now, the Board in its
20 scoping session also related to the need to show these
21 options to the general public in addition to the local
22 citizens' committee.

23 I think you partially answered that
24 earlier in one of your answers to the Board, but could
25 you just comment on that matter again.

1 MS. DAHL: A. Yes. The Ministry of the
2 Environment supports the concept of the local citizens'
3 committee. We think it's an excellent means of getting
4 the local public more involved in timber management
5 planning. However, one has to be careful not to
6 displace the general public with a committee like that.

7 The local citizens' committee is
8 representative of the community, but it does not
9 represent the community. The committee should act as
10 an intermediary between the proponent and the public,
11 but the public still has a right to be consulted
12 directly and the local citizens' committee can, in
13 fact, assist with this consultation.

14 Q. Now, in the context of providing the
15 options, can you briefly set out for the Board the
16 reasons why you think these changes are necessary with
17 respect to the information centre?

18 A. Okay.

19 Q. You would like to refer to an
20 overhead?

21 A. This is overhead No. 3, and I have
22 just set out four basic reasons why I think this change
23 needs to be made.

24 The first reason is simply the number of
25 bump-up requests that have been received by the

1 Ministry of the Environment since 1988. I have done a
2 little analysis of 20 of those bump-up requests which
3 have been received and I will just go through the
4 results of that.

5 MADAM CHAIR: Excuse me. Was that 20 or
6 22 did you say before?

7 MS. DAHL: There have been 22 requests,
8 but at the time I prepared this there had only been 20.

9 The overhead just shows that 16 of the 20
10 requests related to timber management plans. Two of
11 those requests were for major amendments. One of them
12 was an amendment to a harvest allocation area and the
13 other was an amendment to a primary access road.

14 Two of the bump-up requests were made
15 specifically under the MNR Class EA for access roads to
16 MNR facilities, and under the existing exemption order
17 for timber management they are required to follow that
18 Class EA when they are planning a primary road in a
19 Crown management unit. It is still a timber management
20 issue.

21 MS. SEABORN: Q. This is overhead 5 that
22 you are going to show next.

23 MS. DAHL: A. Overhead 5 just breaks
24 down the request by the requester. The interesting
25 thing that this shows is that the concerns seem to be

1 fairly evenly distributed among the stakeholders.

2 There isn't any one particular, I guess,
3 group of stakeholders who seem to be using this process
4 to resolve concerns. It's fairly evenly distributed.

5 Q. This is overhead 6?

6 A. Yes. This shows the bump-up request
7 by issue. In a lot of cases there were a number of
8 issues involved, but I have just categorized them based
9 on what the main concern was of the requester, and by
10 far the greatest concern is roads and access. Nine of
11 those 20 requests were based on those sorts of issues.

12 The next largest category is what I have
13 called old growth clearcut and those were concerns
14 about biodiversity, changing forest structure and old
15 growth specifically and there were four requests based
16 on those issues.

17 The social -- what I have called social
18 aesthetic category just refers to concerns like
19 viewshed from a lake or canoe route, noise impacts,
20 effects on a lake or water. Those sort of aesthetic
21 type concerns.

22 Park clearcut just refers to -- actually,
23 that's the Gordon Cosens Forest and concerns there
24 about the effects of operations adjacent to a waterway
25 park on that park.

Fisheries was a specific case where the district did not gather the information that's required in the fisheries guidelines for certain waterbodies and they didn't apply the cautious approach that's advocated in the MNR policy where they describe cutting adjacent to those waterbodies. So a concerned member of the public brought that to the attention of the minister and was concerned about that.

General category, there were two requests there that were more general concerns such as should there be logging in Algonquin Provincial Park or concerns about the planning process that the Ministry uses to do timber management planning.

Again, what this really shows is that the majority of concerns are to do with roads and access.

MADAM CHAIR: Ms. Dahl, can you remind the Board what the genesis of bump-up is?

Who invented that term bump-up and which other Class EAs has it been used in?

MS. DAHL: Actually all Class EAs.

MADAM CHAIR: So this is an invention of the Ministry of the Environment?

MS. DAHL: It must be. I guess, yes, you bump-up any individual project up from the Class EA pre-approval to require an individual EA.

1 MADAM CHAIR: Is the experience with
2 bump-up requests similar with other Class EAs or is it
3 particular to each Class EA?

4 MS. DAHL: I tried very hard to try to
5 figure that out.

6 MR. FREIDIN: Sorry, I can't hear the
7 witness.

8 MS. DAHL: Sorry. I said I tried very
9 hard to determine that.

10 I know, for example, with the municipal
11 Class EAs we received a lot of bump-up requests, but he
12 don't receive documentation of every project that's
13 carried out and there are over 800 municipalities which
14 follow these Class EAs whenever they are doing sewage
15 or water related or road activities.

16 So we don't have a good idea of how many
17 projects actually proceed in relation to the number of
18 bump-up requests.

19 I can add, though, that in the last four
20 years timber management bump-up requests have been a
21 significant portion of the bump-up requests that the
22 branch has been dealing with.

23 In terms of other provincial ministries
24 and agencies, there have been very few bump-up requests
25 in the last few years which is why timber management is

1 of concern to the ministry.

2 MS. SEABORN: Q. Ms. Dahl, if you just
3 return to your overhead 3, can you address the second
4 issue as to why you think improving public involvement
5 is important?

6 MS. DAHL: A. Here I just in the witness
7 statement referenced excerpts from ministry guidelines
8 and policies and public consultation, ministry
9 expectations and that just serves to reinforce I think
10 the ministry position that there is a need to carry out
11 effective public consultation and consult the public
12 early in the planning process before you make your
13 irreversible decisions. As I said, there are a series
14 of excerpts in the witness statement.

15 MADAM CHAIR: Excuse me, Ms. Dahl. We
16 have in its entirety EAAC's report on its hearings on
17 bump-ups. That was introduced by Ms. Seaborn whenever,
18 last year. Will you be giving any evidence about that?

19 MS. DAHL: No. Actually, I will just go
20 on to the next point. I was just going to say that the
21 minister often refers these kind of matters to EAAC
22 when she feels she needs more public input before she
23 makes a decision and they will hold public meetings and
24 so on and then submit recommendations to the minister.

25 My intention in referring to the EAAC

1 report is not to ask the Board to rely on EAAC's
2 conclusions. I'm explaining the basis for my opinion
3 that there needs to be some improvements to the public
4 consultation process and that's just the reason I
5 referenced it here.

6 MR. FREIDIN: Sorry. Could you just
7 repeat the reason. You said that you were not asking
8 the Board to rely on EAAC, but...

9 MS. DAHL: It is just one of the things
10 that I rely on in my opinion that there needs to be
11 some improvement to the public consultation process and
12 I'm just explaining the basis of that.

13 MS. SEABORN: Q. Now, item 4 on overhead
14 3 you refer, Ms. Dahl, to MNR Policy Directions '90.

15 MS. DAHL: A. Yes. If we can turn to
16 the MOE reference book. Behind Tab 3 there is a copy
17 of the Directions '90 policy. I just want to refer to
18 page 11.

19 I am referencing in particular the second
20 paragraph there, it says that:

21 "If public input is to meaningful the
22 people involved must have access to
23 information that's clearly
24 understandable. If people who are to be
25 affected by resource management decisions

1 are to have a say, they must be presented
2 with all the options. These must be
3 explained in a coherent, non-technical
4 manner so as to enable people to be
5 active citizens and participants rather
6 than passive consumers."

7 I just wanted to point out that statement
8 in the Directions '90 and say that I think that
9 supports what MOE is trying to achieve in this
10 proposal, to present all the options to the public so
11 they can comment on them.

12 Q. Ms. Dahl, as was the case with Mr.
13 Neary and Mr. Bax, you indicate in your evidence that
14 you would update positions that you reviewed of other
15 parties once we had received their revised terms and
16 conditions.

17 Have you had an opportunity to review the
18 revised terms and conditions that we have received to
19 date?

20 A. Yes. I have read the revised terms
21 and conditions of the OFIA and also Forests for
22 Tomorrow, and I am advised that those are the only
23 revised terms and conditions that we have received
24 since the evidence was prepared.

25 Q. Can you advise the Board of your

1 understanding of OFIA's position on the information
2 that should be made available at the second information
3 centre?

4 A. Yes. OFIA, I believe, is proposing
5 that background information similar to what's proposed
6 by MNR be made available. However, they haven't made
7 any proposals in respect of either selected allocations
8 or options for allocations.

9 Q. Did I say second information centre,
10 Ms. Dahl. I should have said first.

11 A. Sorry. Second stage of public
12 consultation, first information centre, that's right.

13 Q. The answer you gave was in respect of
14 the first information centre?

15 A. Yes.

16 Q. What's your understanding of the
17 position that's been put forward by FFT in relation to
18 what should be made available at stage 2, the first
19 information centre?

20 A. Forests for Tomorrow has revised
21 their term and condition for information available at
22 stage 2 to also require that the options available for
23 allocation be presented.

24 In their term and condition they have
25 indicated that the preferred option should be indicated

1 where available and that the areas selected for
2 operations should also be mapped at this stage.

3 I think I can just comment that FFT takes
4 the position that the preferred option should be made
5 available for comment at this stage if they are
6 available, whereas MOE tends to make the position that
7 that decision on the preferred operations shouldn't be
8 made until after public input, but we do recognize the
9 need for flexibility. So that's up to the plan author
10 or planning team to make that decision.

11 Q. With respect to that particular
12 decision, what position has MOE taken in its revised
13 term and condition?

14 A. The revised term and condition says
15 that the options should be presented to the public with
16 the preferred options being identified at the
17 discretion of the plan author.

18 MS. SEABORN: Madam Chair, I see it is
19 just pass noon. I suggest that we break now and we
20 will pick up dealing with the next portion of Ms.
21 Dahl's evidence-in-chief.

22 MADAM CHAIR: All right. We will be back
23 at 1:30.

24 MS. SEABORN: Thank you.

25 ---Luncheon recess at 12:05 p.m.

1 ----Upon resuming at 1:35 p.m.

2 MADAM CHAIR: Please be seated.

3 MS. SEABORN: Madam Chair, perhaps we
4 should mark the flip chart drawn by Ms. Dahl as an
5 exhibit because we have referred to it a few times in
6 the evidence.

7 What would you like to call that, Ms.
8 Dahl?

9 MS. DAHL: It is just a hand-drawn chart
10 showing options for allocations.

11 MADAM CHAIR: That will be Exhibit 2217.

12 ----EXHIBIT NO. 2217: Hand-drawn chart showing options
13 for allocations..

14 MS. SEABORN: Q. Before we move to the
15 other issues that are addressed in your evidence, Ms.
16 Dahl, could you just briefly summarize for the Board
17 your evidence in respect of issue 1?

18 MS. DAHL: A. Okay. If you take a
19 timber management plan, the District Land Use
20 Guidelines set out that forestry is an accepted land
21 use in that area.

22 The timber management plan will have a
23 timber objective in it which says that you need "x"
24 cunits of wood for that five-year period and in
25 allocating your areas your intention is to try and meet

1 that objective.

2 As I explained earlier, the public would
3 be presented with the eligibility map that shows all of
4 the areas eligible and under MNR's proposals they would
5 be shown the areas selected for those allocations.

6 As MOE has suggested, we are asking that
7 if there are other areas which are also eligible and
8 meet your criteria that they also be shown.

9 The forester or the planning team,
10 perhaps members of the local citizens' committee would
11 look at those options and briefly list the advantages
12 and disadvantages associated with them and it's only in
13 that context that MOE has said that the null
14 alternative should be considered in determining the
15 advantages and disadvantages. Maybe I can just give an
16 example.

17 If you are looking at a specific area and
18 you are looking at what are the advantages and
19 disadvantages of operating, all we're saying is that it
20 makes sense to consider what would happen in that area
21 if you don't operate over the five-year period, and an
22 example might be that perhaps this area is susceptible
23 to budworm and if you don't operate there over the next
24 five-year period there is a good chance that you may
25 lose that timber, then obviously that is a significant

1 disadvantage of not allocating the area as soon as
2 possible.

3 So it just helps you to understand the
4 significance of the advantages and disadvantages and
5 that's all we're talking about when we refer to the
6 null alternative.

7 What it does do is it just assists you in
8 deciding between the options that do exist.

9 Q. And the options as they exist are
10 those what you have depicted on your flip chart
11 example, Exhibit 2217?

12 A. Yes, it is just the areas that are
13 eligible and that meet your selection criteria.

14 Q. Now, Ms. Dahl, during Mr. Neary's
15 evidence the Board asked whether MOE was taking a
16 position with respect to closing roads to the general
17 public, and I am wondering if you can offer any
18 assistance with respect to that question?

19 A. Okay. As Mr. Neary explained
20 yesterday MOE's concern is with the environmental
21 effects that may result if a culvert washes out on a
22 road that's been abandoned and not maintained, and that
23 environmental concern would not arise until after the
24 decision has already been made that you are going to
25 abandon that road at some point and after it has, in

1 fact, been abandoned.

2 That, I think, is a different issue from
3 the issue of whether or not the public should be able
4 to use forest access roads.

5 In relation to that issue, the issue of
6 public access, it's not MOE's, I think, mandate or role
7 to take a position on that, on whether or not the
8 public should have access to these roads.

9 However, if you refer to MOE's terms and
10 conditions on page 5, and it is term and condition
11 4(b), there is a term and condition there that relates
12 to this issue. It's at the bottom of page 5.

13 Q. You are referring to the underlying
14 portion of the term and condition--

15 A. Yes.

16 Q. --which refers to alternatives?

17 A. Yes. I think partly as a result of
18 the number of bump-up requests that we have received
19 and that are in relation to access, and because the
20 issue of public access is such a controversial one, MOE
21 felt it necessary to recommend that when you're
22 considering an access corridor that may require gating
23 or other prevention or public access that you should
24 also consider a corridor which would allow for public
25 access and this would be a different corridor. It

1 wouldn't just be considering gating the road versus not
2 gating the road.

3 MADAM CHAIR: So it would have to be a
4 different lake then, Ms. Dahl?

5 MS. DAHL: It's not necessarily in
6 relation to a specific lake. I guess we're just saying
7 if you are looking at a corridor to access a set of
8 stands and because of where that corridor would go you
9 feel it is necessary to restrict public access, then if
10 there is another possible alternative corridor that
11 would still allow for public access that that should be
12 considered.

13 The intention there is to just generate
14 public discussion, to get the local input and look at
15 the advantages and disadvantages of different
16 corridors. It would help provide the rationale for
17 whatever the final decision is by having the public
18 input in the discussion.

19 I think it just makes sense from a
20 planning perspective to look at the two types of
21 alternatives, particularly when you're dealing with an
22 issue that is so contentious and controversial. There
23 should be an opportunity for discussion.

24 MR. MARTEL: The controversy, though, is
25 it over access or is it over wanting to shut it down

1 once it is utilized?

I mean, the reason that I think we have heard is that there is one segment of society who really wants to divert away from lakes and that's the tourist outfitters depending on which class you are of that as well, but is the real issue that you need to generate public discussion or isn't the real problem that no matter where MNR builds a road there is somebody who wants to shut it down because it is going to affect their business and their operation?

Are we just dreaming something up, I
guess is what I am asking you, quite frankly?

MS. DAHL: That may be the case, that every time you want to construct a new road that there is someone who doesn't want it to go in there.

I think the intention of this is to present that to the local public and have that discussed by the local community before the road is constructed so that you are not creating problems down the road if you have a road in there, allowed to use it and then you shut it down. It is to try and consider these things while you are planning these roads and before you have actually built them.

MS. SEABORN: Q. Ms. Dahl, the second issue that you set out at the outset of your evidence

1 that you wanted to address today was your proposal with
2 respect to the index to EA components.

3 Now, I think, Madam Chair, we can deal
4 with this issue relatively quickly.

5 Q. Ms. Dahl, why do you believe that an
6 index to EA components is a good thing?

7 MS. DAHL: A. I have just set out on the
8 overhead three main reasons why I think it's necessary
9 to have an index that distinguishes EA components, and
10 this is overhead No. 7.

11 The first issue. Basically I would say
12 that there is a variety of matters contained in timber
13 management plans, not all of which relate to
14 environmental assessment. I think it's necessary to
15 distinguish between those things to try and reduce
16 confusion.

17 Some examples might be things like
18 forecast of the level of timber harvest based on
19 industrial wood requirements, planned harvest areas are
20 expected to regenerate to commercial species, detailed
21 information on your MAD modelling. A lot of those
22 things are related to timber management, but not
23 directly to environmental assessment.

24 There is also what I will call non-EA
25 terminology that's used in a timber management plan

1 which can also be confusing.

2 Q. Ms. Dahl, just before you go on.

3 Maybe you can flip off the overhead. I think because
4 we all have hard copies that we can follow along with
5 that. Thank you.

6 A. Okay.

7 Q. I'm sorry. The second reason you
8 were referring to was non-EA terminology?

9 A. Yes. Examples would be things like
10 some of the alternative operations or treatments that
11 are found in the silvicultural guides, impacts are
12 referred to as areas of concern, mitigation is referred
13 to as prescriptions.

14 It is just different terminology and for
15 anyone who is familiar with EA planning and are trying
16 to find those components in a timber management plan,
17 unless you have a good understanding of timber
18 management and the terminology commonly used it is
19 practically impossible. So this would just clarify
20 where that information can be located in the plan.

21 The third thing is just that it -- well,
22 it would contribute, certainly, to an easier review of
23 bump-up requests in the branch.

24 I think one of the first things that a
25 planner does when they are asked to look into a bump-up

1 request on a timber management plan is go and get the
2 plan out and try to have a look at it and see the
3 planning process that was followed and the results of
4 that process.

5 Unless, as I said, you have a good
6 understanding of timber management planning and what's
7 involved in it it will probably take you a week or more
8 to try and just figure out the plan and find the
9 information that you are looking for.

10 Q. Now, when you speak of an index to EA
11 components what would that index look like?

12 A. I have an example on pages 20 and 21
13 of the witness statement behind Tab 3. This is the
14 format that MOE has proposed for the index, but I think
15 if there are other suggestions or better ways to do it
16 we would certainly be willing to look at those as well.

17 Q. How did you develop this index?

18 A. The index was developed by looking at
19 the timber management plan '1991 to '96 for the Red
20 Lake Crown Management Unit and I just reviewed the
21 contents of that plan to determine where, if at all,
22 the information appropriate for these sections was
23 found in that plan.

24 Q. How did you choose the actual
25 sections that are contained on the content side of the

1 index?

2 A. What I refer to when I say the
3 sections is the headings in bold and capital letters
4 and those were derived basically from a review of the
5 environmental study report contents from existing Class
6 EAs and these sections represent those sections that
7 are normally found in the documentation of Class EA
8 projects and they're generally common to environmental
9 study reports.

10 Q. Now, on the right-hand side of the
11 page in a couple of instances you have a blank. What
12 does that represent?

13 A. The blanks just represent information
14 that would be appropriate under these headings, but
15 which was not found in the Red Lake plan.

16 Q. In terms of looking for this
17 information, did you go beyond the volumes of the plan
18 itself to the district office records?

19 A. No.

20 Q. Now, at the scoping session the Board
21 indicated that it was interested in knowing whether the
22 index is complete and does it contain everything MOE
23 wants to see in such an index. Can you respond to that
24 question?

25 A. I would say that these section

1 headings are complete and they do represent the basic
2 requirements of environmental assessment planning. The
3 items are generally consistent with MOE's expectations
4 with respect to environmental assessment planning.

5 However, I think with respect to sort of
6 the subheadings underneath that -- based on, I guess,
7 terms and conditions that may be approved that may vary
8 and that that information there may not be complete.

9 For example, in some of these areas I did
10 find the information in the plan. However, it may not
11 have been presented at an appropriate level of detail
12 or what the ministry would consider an appropriate
13 level of detail, and also this plan was prepared based
14 on current practice.

15 With the proposed terms and conditions I
16 think that some of these areas may in fact provide more
17 information or be expanded upon once timber management
18 plans are implemented under proposed terms and
19 conditions.

20 Q. Now, is this the sort of
21 documentation that's required by other class EAs that
22 you are familiar with?

23 A. Generally yes, although there is
24 variation between proponents and between different
25 classes of undertakings.

1 Q. Has MOE proposed a draft term and
2 condition for consideration by the Board?

3 A. No, we haven't proposed anything at
4 this time. We understand that MNR is agreeable to
5 incorporating an index like this in timber management
6 plans, but we just haven't confirmed that yet.

7 Q. Thank you. Now, the final issue, Ms.
8 Dahl, I want to deal with this afternoon is your
9 evidence in relation to bump-up.

10 Now, in response to a question earlier
11 today from the Board you indicated that a bump-up
12 provision is common to all Class EAs; is that correct?

13 A. Yes, it is.

14 Q. Now, what is the purpose of bump-up?

15 A. Basically I think the purpose of
16 bump-up is to allow for an individual environmental
17 assessment where concerns have not been or cannot be
18 adequately addressed through the planning process or
19 where the expected environmental effects may be more
20 severe, unpredictable than originally anticipated.

21 Concerns would normally be raised by the
22 public, but it is also possible that concerns leading
23 to a bump-up could be raised by government or industry.

24 Q. What is your understanding of the
25 basis for bump-up?

1 A. I think bump-up is premised on the
2 notion that you cannot predict all site-specific
3 impacts or concerns at the time that the Class EA
4 document is being approved.

5 There is a planning process normally set
6 out which ensures that these things are taken into
7 consideration and decisions are made in a manner that's
8 consistent with EA to address the site-specific
9 implications of those projects.

10 Where there aren't any major concerns,
11 then the project would simply go ahead. It's in effect
12 pre-approved by the Class EA approval, but there may be
13 cases where there are significant concerns raised or
14 impacts which were not anticipated and in that case the
15 Ministre of the Environment may be asked to, in effect,
16 sort of remove that pre-approval and require the
17 submission of an individual EA to consider that
18 specific project before it's allowed to proceed.

19 Q. Could you briefly describe for the
20 Board how the bump-up procedure works from MOE's
21 perspective?

22 A. Okay. Bump-up requests are made to
23 the Minister of the Environment and the minister would
24 then refer the request to the Environmental Assessment
25 Branch to be reviewed.

1 A planner from the branch would then
2 review it and would look at matters such as the
3 planning process followed, the alternatives that were
4 considered, the expected environmental effects,
5 mitigation measures that were proposed to try and
6 reduce the effects, the results of public consultation
7 and how that was incorporated into the plan,
8 particularly with respect to those concerns that gave
9 rise to the bump-up request.

10 MADAM CHAIR: Excuse me. Ms. Dahl, how
11 many planners or reviewers do you have in the EA
12 branch?

13 MS. DAHL: Altogether in the branch there
14 is about, I think, 40 planners.

15 MADAM CHAIR: Are they all in Toronto?

16 MS. DAHL: Yes. There is actually eight
17 in the provincial unit who would deal with
18 environmental assessments of provincial government
19 ministries and agencies. So there is really only eight
20 who would be involved in timber management.

21 The planner would generally have the
22 information provided by the requester. They may also
23 speak with staff in our district offices, with the MNR
24 staff. If there are other agencies involved such as
25 the Northern Ontario Tourist Outfitters or the Ministry

1 of Tourism and Recreation, they may speak with people
2 there regarding the concerns.

3 Attempts to resolve the concerns are
4 usually made or to suggest possible resolutions where
5 it looks like there may be something reasonable, and
6 then recommendations are made to the minister who then
7 has to decide what she wants to do about the bump-up
8 request.

9 If the minister decides to grant the
10 bump-up request, then the proponent is required to
11 prepare an individual EA which is then submitted to the
12 minister and goes through the formal government review
13 process. The minister then makes the decision on
14 whether or not to approve it, approve it with
15 conditions or to refer it to the board for a public
16 hearing and decision.

17 MS. SEABORN: Q. In the context of
18 timber management planning, what is your understanding
19 of how the bump-up procedure recommended by MNR is
20 intended to operate?

21 MS. DAHL: A. Okay. The bump-up
22 procedure that MNR has proposed is in their terms and
23 conditions. I believe it is Exhibit 2032 and it is in
24 Appendix 15 on page 72.

25 MADAM CHAIR: Did you say page 72?

1 MS. DAHL: Yes. I will just briefly
2 summarize the main points of the bump-up procedure.

3 'It can be initiated at any time during
4 the planning process up until 30 days after the final
5 public notice. Any person can request the minister to
6 require a bump-up. The Ministry of the Environment
7 would provide a copy of that to MNR and request
8 information from MNR in relation to the request.

9 MS. SEABORN: Q. So that the bump-up
10 request goes to the Minister of the Environment, not to
11 MNR?

12 A. Yes, right. The minister would then
13 consider the request. As I explained, it would be
14 referred to the branch for review.

15 MNR would be given time to respond to the
16 bump-up request and to provide information. The
17 minister's decision under this proposal would normally
18 be made within 45 days. It says here "the end of the
19 last opportunity to make the bump-up request."

20 If the request is made while planning is
21 ongoing, then the planning can continue. It doesn't
22 interfere with that while the minister is considering
23 the request.

24 The minister will notify MNR and the
25 requester if she decides not to grant the request with

1 reasons. She will also notify them if she does decide
2 to grant it and outline the specific area that is
3 subject to the bump-up and also the specific timber
4 management activities that would be subject to the
5 bump-up.

6 Q. Now, has MOE proposed any amendments
7 to MNR's terms and conditions in respect of bump-up?

8 A. Yes, MOE has proposed two minor
9 changes I think to clarify the process. I would refer
10 now to MOE's terms and conditions.

11 Q. That's at page 27 of MOE's terms and
12 conditions?

13 A. Yes. The first change I will talk
14 about is to Appendix 15 and it's the bottom of that
15 page. It is the underlying portion of point No. 3 in
16 Appendix 15.

17 The intent of this change is to recognize
18 that the Minister of the Environment cannot properly
19 consider a bump-up request until information is
20 received from the MNR, and if that information is late
21 in being sent to the minister then the decision on
22 bump-up would also be delayed.

23 So we have just said that the minister's
24 decision will normally be made within 45 days of the
25 end of the public review period or receipt of the

1 response by the Ministry of Natural Resources,
2 whichever is later.

3 Q. What is the second change that MOE is
4 proposing?

5 A. The second change is at the top of
6 that page, Appendix 3, part A, 4(d). Actually if you
7 look on page 26 you will see the MNR's proposed wording
8 and MOE has just made a deletion from the end of that
9 last sentence.

10 Q. What's the purpose of the deletion?

11 A. It's just a deletion of the reference
12 to the minister's decision in the public notice that
13 MNR will provide. It is MOE's view that it is
14 sufficient to have that notice, notify the public that
15 they have a right to make up a bump-up request and
16 further details about the exact timing of the
17 minister's decision aren't necessary in that kind of a
18 notice.

19 Q. Now, are there any --

20 MADAM CHAIR: Excuse me, Ms. Dahl. Does
21 this term and condition mean that there is no schedule
22 within which the Minister of the Environment has to
23 respond to a bump-up request?

24 MS. DAHL: It doesn't mean that there is
25 no schedule. It's just not set out in the notice.

1 I guess the main concern we had with this
2 is that it tells the public that the minister will make
3 a decision within 45 days at the end of the public
4 review period. The bump-up term and condition says
5 that that decision will normally be made within 45 days
6 and we just don't want to create an expectation in the
7 public mind that there will be a decision within 45
8 days when in some cases it may not be the case.

9 So it's just satisfactory I think to
10 notify the public that they have that opportunity and
11 the minister would normally correspond with them and
12 provide information on when they can expect her
13 decision.

14 MS. SEABORN: Q. Are there any other
15 aspects of how MOE proposes to handle bump-up requests
16 which you think the Board should be aware of?

17 MS. DAHL: A. Just a few things that I
18 wanted to make note of.

19 ----Discussion off the record

20 Q. Sorry, Ms. Dahl, you were going to
21 address the question of whether -- are there other
22 aspects of how MOE proposes to handle bump-up requests
23 which you think the Board Board should be aware of?

24 A. Yes, just a few minutes. When
25 reviewing a bump-up request staff may wish to contact

1 the local citizens' committee directly and get their
2 input on certain issues or their opinion and we may do
3 that if we feel it's necessary.

4 With respect to requests which are made
5 early in the planning process, for example if someone
6 attended the first information centre and then made a
7 bump-up request based on what they saw there, it has
8 normally been the practice of the ministry to advise
9 the person to participate in the planning process and
10 try to resolve their concerns through that process.

11 If at the end of that process they are
12 still not satisfied they can come back to the minister
13 with their bump-up request.

14 So basically we would just advise them on
15 an early request to continue through the process,
16 consult with the planning team, local citizens'
17 committee, take advantage of the issue resolution
18 process and attempt to resolve the concerns.

19 Also, I guess, with respect to the
20 schedule for the minister's decision, I just wanted to
21 add that where there appears to be possible compromise
22 or solution that will resolve concerns it would be
23 MOE's intention to continue to pursue that possible
24 solution and resolve the issue and that may result in
25 it taking longer than 45 days for the minister to make

1 a decision, but we don't think it would make sense to
2 abandon an attempt at a solution which appeared to have
3 merit because that 45 days was running out. It is our
4 intention to try and meet that 45 days whenever
5 possible.

6 MADAM CHAIR: I guess the concern has
7 never been with 45 days, but with the fact that two
8 years went by where people waited for a decision about
9 bump-ups.

10 MS. DAHL: Yes.

11 MADAM CHAIR: Do you believe that the
12 wording in Appendix 15 will ensure that that wouldn't
13 happen?

14 MS. DAHL: It is definitely the intention
15 of it. We went from having no time frame at all to
16 having a 45-day time frame and it is certainly the
17 ministry's intention to do our best to try and meet
18 that.

19 MS. SEABORN: Q. Ms. Dahl, in your
20 evidence you also refer to what has been termed in this
21 hearing automatic bump-ups.

22 Could you provide your opinion to the
23 Board with respect to the value of an automatic
24 bump-up?

25 MS. DAHL: A. MOE is concerned that any

1 bump-up process must maintain the minister's ability to
2 deal with frivolous or vexatious requests expeditiously
3 and also the uncertainty -- I think the uncertainty of
4 knowing whether or not the minister will grant your
5 request can often be something that will encourage both
6 MNR and the proponent to try and resolve their concerns
7 so that they don't have to rely on the minister making
8 a decision one way or another.

9 We are also concerned that having an
10 automatic bump-up would discourage or could discourage
11 parties from seriously attempting to negotiate a
12 resolution to their concerns. They may feel that they
13 are guaranteed that the minister will grant a bump-up
14 request and, therefore, they don't need to try and work
15 things out.

16 Bump-up requests are an indication that
17 the planning process is not working as well as it could
18 and anything that would encourage parties to try and
19 resolve their issues and work out their differences
20 should be supported. It's obviously preferable for
21 parties to come to an agreement than to have the
22 minister impose a decision.

23 Q. Ms. Dahl, what concerns, if any, do
24 you have with respect to the automatic bump-up
25 proposals that have been presented to the Board in

1 evidence or through terms and conditions to date?

2 A. There are two proposals before the
3 Board I think which the ministry would consider to be
4 comparable to an automatic bump-up.

5 Forests for Tomorrow has set out in their
6 proposed terms and conditions the circumstances in
7 which the minister will grant a bump-up request, and
8 the OFAH/NOTO coalition has proposed a term and
9 condition where an automatic Board hearing would be
10 required if 60 per cent of the public advisory
11 committee doesn't approve a timber management plan or a
12 major amendment. I discuss those proposals in my
13 evidence as well.

14 I would just add that I think it is my
15 opinion that the proposal of the OFAH/NOTO coalition is
16 really not a bump-up proposal as much as it is conflict
17 resolution by the EA Board and it's not a proposal that
18 MOE could endorse.

19 Q. Now, Ms. Dahl, there have been
20 designation of bump-up requests made to the minister
21 since the outset of this hearing. Could you briefly
22 describe for the Board what happens to these requests?
23 This is your overhead 8.

24 A. This is the last overhead in the
25 series that I did on the analysis of the 20 bump-up

1 requests.

2 Thirteen of the requests have been
3 denied, one has been granted and there are two
4 currently under review and, as I mentioned earlier,
5 there are two more that have been received and are
6 under review.

7 I wanted to draw attention to the four
8 requests that have been withdrawn. I think those are
9 important because those are situations where a
10 resolution was found and the person who made the
11 request then withdrew it.

12 I am just going to briefly go through
13 those four. One of them was --

14 Q. Ms. Dahl, is it necessary -- why
15 don't we turn overhead while you do this because we
16 have the hard copy. It is easier to hear.

17 A. One of those was called the Ashby
18 Trout Lake Road and it was a forest access road planned
19 under the MNR's Class EA for access roads to MNR
20 facilities. Again, it was a primary access road on a
21 Crown management unit.

22 So the bump-up request was made. Branch
23 staff became involved and went on a site visit with the
24 Cottagers' Association and the MNR and together I guess
25 they were able to identify an alternative route for the

1 road which didn't -- which the cottagers found
2 acceptable and based on agreeing to implement that
3 alternative the request was withdrawn.

4 There was another case in the Nakina
5 Forest and the concern involved constructing a bridge
6 across a wilderness river, and in that case the bump-up
7 request was made and then a group called the Albany
8 Watershed Task Force was created by the MNR and they
9 looked at various alternatives and were able to find an
10 alternative which was acceptable to both the company
11 and the bump-up requester which didn't involve crossing
12 that river. So that request was also withdrawn.

13 I alluded earlier to the request in the
14 Tweed Forest which was the fisheries concerns where the
15 guidelines were not applied to certain waterbodies, and
16 in that case MNR did gather the data to satisfy the
17 person who had made the request and it was withdrawn.

18 The last one is the more recent one
19 called the Moose Hijack Fish Road. Again, another
20 access concern. It was a proposed winter road with
21 seasonal restrictions and there were concerns about the
22 timing of those restrictions and through discussion
23 they were able to work out a compromise and the
24 request, again, was withdrawn.

25 In terms of the 13 requests that were

1 denied, I also wanted to point out that these requests
2 were not just outright denied by the minister. In most
3 cases there were changes made to the plan by the MNR
4 which the minister felt adequately addressed the
5 concerns that had been raised.

6 In some cases, two cases in particular
7 which went through EAAC, the minister actually imposed
8 conditions on her denial of the bump-up. Just because
9 a bump-up is not granted that doesn't mean that nothing
10 is done to try and resolve the concerns or minimize the
11 impacts.

12 Q. Now, with respect to the request that
13 was granted, which plan was that in relation to?

14 A. It actually touches on three timber
15 management plans. It is the Megisan Lake area, the
16 Ranger Lake plan/Superior Forest plan, and I believe it
17 is the Pechu unit as well.

18 Q. Was that one of the matters that was
19 referred to EAAC by MOE last year?

20 A. Yes, it was.

21 Q. Now, Ms. Dahl, what conclusions do
22 you draw from your experience in respect of bump-up
23 requests?

24 A. Well, the requests that were
25 withdrawn I think shows that in many cases there does

1 exist reasonable alternatives which would take care of
2 the concern that is being raised which leads back to my
3 first section of the evidence that you have to involve
4 the public early in decision making and you have to
5 explore all of the alternatives if you are going to try
6 and resolve concerns without proceeding to a bump-up.

7 I think in my opinion these concerns
8 could have been addressed earlier in the process. As I
9 said earlier, a bump-up is an indicator of how well the
10 planning process is working and I think that by
11 improving the planning process you should be able to
12 reduce conflict and controversy and I think that should
13 be measured by a reduction in bump-up requests.

14 I think everybody is learning from the
15 experiences that we have been having with these bump-up
16 requests and it can be improved.

17 Q. Ms. Dahl, is the bump-up process, in
18 your opinion, an important part of the Class EA or of
19 any Class EA?

20 A. Actually, I would say no, it's not.
21 Bump-up is required to deal with those exceptional
22 cases, but it shouldn't be the focus of a Class EA. It
23 is not intended to be a conflict resolution mechanism.

24 I think public consultation itself is a
25 conflict resolution strategy and also the proposed

1 issue resolution process in the MNR's draft terms and
2 conditions is another mechanism for trying to resolve
3 conflicts without proceeding to a bump-up.

4 One of MOE's goals in this hearing
5 process I think is to try and gain an approval which
6 will reduce the number of bump-up requests which are
7 made.

8 As I said earlier, timber management
9 bump-up requests over the last four years have been a
10 significant part of the workload in terms of bump-up
11 requests that the branch deals with.

12 I think the branch tends to view Class EA
13 as kind of a self-assessment process and bump-up is an
14 indication that that process may not be working as well
15 as it could. The more proponents are able to resolve
16 conflicts the better off that that self-assessment
17 process is working and the better off, I think, the
18 general public is.

19 Q. Now, Ms. Dahl, what action has the
20 Ministry of the Environment taken in the recent past
21 with respect to Class EAs and timber management in
22 particular?

23 A. There have been a number of ongoing
24 improvements made to the EA process in general and some
25 of these affect how we handle bump-up requests for

1 timber management specifically.

2 Evolving out of the EAAC review and the
3 environmental assessment program improvement project
4 task force --

5 Q. Is that commonly known as the EA PIP
6 task force?

7 A. EA PIP task force, that's right. The
8 minister has developed some criteria for evaluating
9 bump-up requests and these apply to all bump-ups under
10 all Class EAs including timber management.

11 MOE also supports the proposals for a
12 local citizens' committee and also for the issue
13 resolution process. I think those are other ways of
14 dealing with these concerns.

15 The EA Branch has been encouraging
16 negotiations between bump-up requesters and the MNR to
17 try and resolve their issues, and I would also note the
18 timber management exemption order which applies while
19 this hearing is ongoing is being revised to implement
20 improvements and try and improve the process in the
21 interim while the hearing continues.

22 Those are some of the steps that the
23 ministry has taken recently to try and improve this.

24 Q. Ms. Dahl, could you turn to page 11
25 of the MOE reference book which is Exhibit 2200B, Tab

1 11.

2 You have included behind this tab

3 Guideline on Interim Criteria for Evaluating Exemption
4 Designation and Bump-Up Requests and the version that's
5 been filed with the Board is marked in draft.

6 Has that version changed at all since
7 filing this evidence with the Board?

8 A. No, the criteria have remained the
9 same. I think it has now been translated into a
10 ministry policy document and it is just waiting final
11 approval, but the contents are still exactly the same
12 as in this version.

13 Q. When that final document comes out
14 then as part of -- it be part of MOE's policy manual?

15 A. Yes, it will.

16 Q. And when it comes out as part of the
17 policy manual do you anticipate the wording to change
18 at all from what has been provided to the Board in this
19 reference book?

20 A. No, I don't anticipate it will
21 change.

22 Q. Thank you.

23 MS. SEABORN: Madam Chair, subject to any
24 questions the Board may have for the witnesses that
25 concludes the evidence-in-chief.

1 MADAM CHAIR: No, that's fine.

2 Thank you, Ms. Dahl, Ms. Seaborn.

3 Good afternoon, Mr. Hanna. Do you want
4 to take a break now or would you like to get started
5 and then have a break? I think we usually have the
6 afternoon at 20 -- in about 15 minutes. So it is
7 really up to, however you would like to proceed.

8 MR. HANNA: We might as well keep it
9 going with everybody in their normal cycle in terms of
10 breaks.

11 MADAM CHAIR: Okay, fine.

12 MR. HANNA: Good afternoon, panel. My
13 name is Ed Hanna and I represent the Ontario Federation
14 of Anglers and Hunters and the Northern Tourist
15 Outfitters Association coalition.

16 I would like to start my questions with
17 Ms. Dahl, if that's acceptable.

18 CROSS-EXAMINATION BY MR. HANNA:

19 Q. Ms. Dahl, I would first like to deal
20 with your curriculum and I believe that is contained
21 behind Tab 4 of the witness statement. Do you have
22 that?

23 MS. DAHL: A. Yes.

24 Q. Now, I would like, first of all, to
25 have you indicate to me where in the outline of your

1 experience that's contained in this curriculum vitae
2 where you have received training in the use of
3 quantitative impact prediction techniques for
4 environmental assessment?

5 A. There isn't anything specified in the
6 CV, although I have taken some university courses that
7 deal with quantitative evaluation.

8 Q. Would you say you have a high level
9 of expertise in terms of the application and
10 state-of-the-art in these types of techniques?

11 A. No. I wouldn't say high level of
12 expertise, no.

13 Q. How would you describe your level of
14 expertise?

15 A. I would say I have a general
16 understanding of the concepts.

17 Q. Have you had any practical experience
18 in applying these techniques?

19 A. No.

20 Q. Now, have you ever been involved in
21 the preparation of a timber management plan?

22 A. No.

23 Q. Have you ever attempted to predict
24 environmental effects associated with timber management
25 activities?

1 A. No.

2 Q. Now, do you understand what is meant
3 by the term evaluation methods in environmental
4 assessments?

5 A. Yes, I believe so.

6 Q. Can you explain to me what your
7 understanding of environmental evaluation methods are?

8 A. An evaluation method is basically a
9 documented method of how you will evaluate your
10 alternatives which is clearly defined and, therefore,
11 replicable so that anyone could follow the method and
12 understand how you carried out the analysis.

13 Q. Are there well-established evaluation
14 methods that are formally used in environmental
15 assessments in this province at the present time?

16 A. Some environmental assessments do use
17 formal evaluation methods that are established.

18 Q. Like simply additive weighting
19 models, AHP, there is a whole variety of those types of
20 evaluation methods that can be used; is that not
21 correct?

22 A. Yes, those are examples of some of
23 the methods which are used in some environmental
24 assessments.

25 Q. Now, can you give me an example of an

1 environmental assessment which you are familiar with
2 that did not use some form of formal evaluation method?

3 A. I can give examples of environmental
4 assessments where parts of the environmental assessment
5 or the analysis of alternatives did not use a formal
6 method.

7 The two that I'm familiar with would be
8 recent Ontario Hydro transmission lines. At the
9 'alternative to' stage in consideration of those
10 alternatives they did not set out a formal method for
11 that evaluation.

12 Q. Now, I want to make sure I have these
13 because I want to look these up. Can you just give me
14 the specific two references that you are referring to?

15 A. The one in specific would be the
16 northeastern Ontario transmission environmental
17 assessment and I believe also the bulk transmission
18 west of London did not set out a formal method at that
19 stage.

20 Q. Would you agree with me that the
21 great majority of the environmental assessments,
22 particularly given your difficulty in answering that
23 question, use formal evaluation methods?

24 A. I don't think I can comment on what
25 the majority of environmental assessments use. I can

1 comment on the ones that I'm familiar with.

2 Q. The ones you are familiar with?

3 A. Some of them used formal methods that
4 are set out and --

5 Q. Do you see the use of formal
6 evaluation methods a valuable tool in providing or, how
7 should I say, satisfying the requirements of
8 traceability and replicability?

9 A. I think formal evaluation methods can
10 be a satisfactory method of achieving traceability and
11 replicability, but not necessarily in all cases.

12 I think with formal evaluation methods it
13 is always possible to I guess structure them in such a
14 way that they are not that traceable or replicable. It
15 depends on the proponent themselves and how well they
16 implement it. There are varying levels of --

17 Q. All right. Let's take the
18 responsible proponent who applies an appropriate level
19 in a responsible way?

20 A. Then, yes, it does achieve
21 traceability and replicability.

22 Q. Now, I think the answer to this
23 question is obvious, but I ask it anyways because some
24 of the responses to the interrogatories did go to this
25 matter.

1 Have you any experience, practical or
2 otherwise, in the application of the techniques that
3 have been referred to by the Coalition as habitat
4 supply analysis?

5 A. No.

6 Q. Or any other formal predictive
7 technique such as that associated with timber
8 management activities?

9 A. No experience with the applying them,
10 no.

11 Q. Now, I have reviewed carefully the
12 interim guidelines which are included behind Tab 12 of
13 Exhibit 2200B and in there there is considerable
14 discussion about the need to look at alternatives and
15 to evaluate advantages and disadvantages and to provide
16 an assessment of the net effects of alternatives; is
17 that correct?

18 A. Yes, that is contained in those
19 guidelines.

20 Q. Can you tell me what the role of
21 those guidelines are for you as an environmental
22 planner within the EA Branch at the present time?

23 A. We refer to the guidelines when we
24 are providing advice to proponents who are preparing
25 environmental assessments, and we also refer to the

1 guidelines when we're reviewing environmental
2 assessments that have been submitted to the minister.

3 Q. Would it be fair to suggest that those
4 are reflective of what the collective knowledge
5 is of the branch as what constitutes good environmental
6 planning?

7 A. Those are the guidelines we have.
8 They are put together by certain members of the branch,
9 but I wouldn't say that it's the collective opinion of
10 the branch because everyone didn't participate in the
11 preparation of those guidelines. It reflects the
12 opinions of, I guess, certain of the more senior
13 members of the branch who prepared them.

14 Q. Now, would you agree that those
15 guidelines, and those guidelines being an
16 interpretation from an environmental planning point of
17 view the Environmental Assessment Act, that the
18 guidelines require that both negative and positive
19 impacts be forecast and evaluated?

20 A. The guidelines do suggest that when
21 you're evaluating impacts that you should consider
22 positive and negative effects, yes.

23 Q. Would you agree that the mitigation
24 of positive impacts should be designed to enhance the
25 positive qualities of those impacts?

1 MADAM CHAIR: You are going to have to
2 repeat that, Mr. Hanna.

3 MR. HANNA: I have got it written down.

4 MADAM CHAIR: There is something positive
5 in there, but...

6 MR. HANNA: Q. Would you agree that the
7 mitigation of positive impacts should be designed to
8 enhance the positive qualities of those impacts?

9 MR. MARTEL: Give me an example of what
10 you are asking. It might help.

11 MR. HANNA: Certainly, Mr. Martel. A
12 positive impact that may come from, for example, the
13 clearcuts maybe moose habitat. It's a positive impact
14 associated with that activity.

15 One mitigation strategy associated with
16 that impact may be to design that clearcut in such a
17 way that you enhance the positive qualities of the
18 impact.

19 MS. DAHL: It's my understanding that
20 mitigation is intended to reduce a remedy or eliminate
21 negative effects on the environment. That's the
22 purpose of mitigation.

23 That being said though, where you have an
24 opportunity to enhance a positive impact the ministry
25 certainly wouldn't disagree with that. I think it

1 would be desirable to do that if you have that
2 opportunity and it; s reasonable to accomplish.

3 MR. HANNA: Q. Could you turn to page 23
4 of Tab 12 of Exhibit 2200B, please, under the heading
5 Mitigation/Enhancement Measures.

6 MR. FREIDIN: What page are we at?

7 MR. HANNA: Page 23.

8 Q. Do you have that page, Ms. Dahl?

9 MS. DAHL: A. Yes.

10 Q. Now, the last sentence in the first
11 paragraph says:

12 "Mitigation measures reduce or avoid
13 negative effects, while enhancement
14 measures increase the positive effects."

15 I may be use the term mitigation in
16 perhaps too loose a way. I haven't heard the term
17 enhancement measures in the hearing, so let's talk
18 about enhancement measures as the converse of
19 mitigation measures. Is that acceptable to you?

20 A. Yes.

21 Q. So enhancement measures are part of
22 the process of developing net effects the same way that
23 mitigation measures are part of that process that deal
24 with negative impacts?

25 A. Yes, I think where we have an

1 opportunity to enhance a positive effect and it's
2 reasonable do that, then that should be considered in
3 your net effects, yes.

4 Q. Okay. Now, I don't expect you do,
5 but I will ask this question in the event that you do.

6 Do you have any evidence to refute other
7 evidence that has been given at this hearing that
8 timber management activities can have positive and
9 negative impacts on wildlife habitat?

10 A. No.

11 Q. Does wildlife habitat fall within the
12 definition of the environment as you interpret the
13 Environmental Assessment Act?

14 MS. SEABORN: Mr. Hanna, before Ms. Dahl
15 responds to the question. I don't think you should
16 pose questions in such a way that require a witness to
17 interpret a piece of legislation. You can ask her
18 about environmental assessments generally, but not
19 about what the act requires.

20 MR. HANNA: I anticipated that question
21 and had my speech prepared simply because I wanted the
22 the opportunity to make the speech.

23 These people that are here - in fact, Ms.
24 Dahl's a representative - regularly interpret that
25 statute for members of the public. In fact, it has

1 been my experience in going to the branch that that is
2 a job that they perform for the ministry.

3 I accept the basic rule in these types of
4 proceedings that legal interpretations is the role of
5 lawyers and that will be dealt with in other parts of
6 this hearing.

7 The questions I am asking of Ms. Dahl are
8 in her role as an environmental planner with that
9 branch and the type of advice that she gives to
10 proponents and people of that kind in terms of the
11 interpretation of the act. I believe that's well
12 within her regular duties.

13 MS. SEABORN: As long as you structure
14 the question in that way, Mr. Hanna, I don't have any
15 objection. I just object to you putting a law question
16 to the witness about interpretation of a section of the
17 act or a piece of legislation. Ms. Dahl obviously
18 isn't here to provide the Board with legal opinions.

19 MR. HANNA: I agree.

20 Q. Ms. Dahl, with those qualifications
21 can you please answer the question?

22 MS. DAHL: A. I'm sorry. Can I ask you
23 to repeat the question, please.

24 Q. Does wildlife habitat fall within the
25 definition of the environment as you interpret it in

1 your role as an environmental planner within the
2 definition of the environment that's included in the
3 Environmental Assessment Act?

4 A. Yes, it would.

5 MADAM CHAIR: Sorry, Mr. Hanna, I just
6 said what doesn't give the definition of the
7 Environmental Assessment Act.

8 MR. HANNA: That's true.

9 Q. So given that timber management
10 activities can affect wildlife habitat and the effects
11 can be both positive and negative, does it not follow
12 then that the measures both for mitigation and
13 enhancement are a legitimate part of the evaluation of
14 alternative timber management activities, the
15 evaluations of advantages and disadvantages and net
16 effects?

17 A. I'm sorry, could you just repeat the
18 first part of the question.

19 Q. Okay. Given that timber management
20 activities can have both positive and negative impacts
21 on wildlife habitat and that there are mitigation and
22 enhancement measures that apply in both circumstances,
23 does it not follow that it is a legitimate part of the
24 evaluation of alternative timber management activities
25 to look at the advantages, disadvantages and net

1 effects using both enhancement and mitigation measures?

2 A. I would agree that, yes, you do need
3 to look at definitely mitigation measures and where
4 reasonable to accomplish enhancement measures, yes.

5 MADAM CHAIR: Shall we take our break
6 now, Mr. Hanna. We have just reached that point.

7 MR. HANNA: Certainly. Madam Chair,
8 maybe just before we go, Ms. Dahl if you have nothing
9 to do nothing during the break I will be starting and
10 going through the interrogatories and I will start with
11 question 19. So you might want to be prepared for it.

12 MS. DAHL: Okay.

13 MS. SEABORN: These are, I take it, are
14 the interrogatories posed by the Coalition?

15 MR. HANNA: That's correct.

16 MADAM CHAIR: We will be back in 20
17 minutes.

18 ---Recess at 2:40 p.m.

19 ---Upon resuming at 3:05 p.m.

20 MADAM CHAIR: A please be seated.

21 MR. HANNA: Q. Ms. Dahl, before the
22 break I asked you to get out interrogatory No. 19 from
23 the OFAH/NOTO coalition and it deals with page 3,
24 paragraph 4 of your witness statement behind Tab 3.

25 This is under the heading Evidence

1 Presented by OFAH/NOTO Coalition and it is under the
2 issue involving the public in decision making.

3 MADAM CHAIR: Excuse me. This is
4 interrogatory question 19?

5 MR. HANNA: Yes, Madam Chair. It is on
6 page 24.

7 MADAM CHAIR: Tab 2 of Exhibit 2201.

8 MR. HANNA: Tab 3.

9 MADAM CHAIR: Tab 3. Page 24?

10 MR. HANNA: Page 24, yes. I'm sorry, I
11 don't have it all in a bound copy, but yes, it is page
12 24 of the interrogatories and it refers to page 3
13 behind Tab 3 of the witness statement.

14 MR. MARTEL: But it is Tab 2 in this
15 book.

16 MR. HANNA: Q. Now, Ms. Dahl, this
17 interrogatory is dealing with the summary that you
18 presented of the OFAH/NOTO coalition evidence under the
19 heading Involving the Public in Decision Making,
20 correct?

21 MS. DAHL: A. Yes.

22 Q. And the last sentence on page 3
23 states that:

24 "The Coalition is essentially advocating
25 forest management and not timber

1 management through the optimum mix of
2 resource benefits."

3 Correct?

4 A. Yes.

5 Q. And I take it this is your
6 interpretation?

7 A. Yes, it's my interpretation.

8 Q. Now, I believe that you have agreed
9 that one must take into consideration the environmental
10 implications of timber management activities inasmuch
11 as they relate to the manipulation of the forest cover,
12 correct?

13 A. Yes.

14 Q. Does it not follow then that the
15 environmental implications with the manipulation of
16 that forest cover or forest structure must be
17 legitimately considered as part of a timber management
18 plan seeing that the timber management plan is being
19 proposed to address the requirements of the
20 Environmental Assessment Act in addition to other
21 pieces of legislation?

22 A. I think the manipulation of the
23 forest cover needs to be considered inasmuch as it's
24 resulting from the four activities of timber
25 management; the access, harvest, renewal and

1 maintenance activities.

2 Q. Yes. Now, in response to part B of
3 the interrogatory, it states:

4 "Is it the position of the witness in MOE
5 that the definition of the environment
6 and the Environmental Assessment Act
7 includes timber management and non-timber
8 values?"

9 Your response to that is:

10 "Yes, but the definition must be read
11 in conjunction with the proponent's
12 definition of the undertaking.

13 That was a new twist on that for me. It
14 was the first time I have heard that the definition of
15 the environment had anything to do -- or the
16 proponent's definition of the undertaking had anything
17 to do with the definition of the environment and the
18 Environmental Assessment Act.

19 I was wondering if you could clarify that
20 for me.

21 A. The definition in the act would
22 include timber and non-timber values and that is just
23 to clarify that when you are considering those timber
24 and non-timber values or the definition of the
25 environment it's directly related to what the

1 undertaking is and what the activities are.

2 Q. And the results of those activities
3 such as manipulation of the forest cover?

4 A. Yes.

5 Q. So that the definition of the
6 environment as broad as Madam Chair has made reference
7 to has to be related back to the activities and in
8 particular the activities and inasmuch as they relate
9 to the manipulation of the forest cover?

10 A. Yes, and their effects on the
11 environment.

12 Q. Yes. Now, part (d) of that
13 interrogatory deals with the matter of a reasonable
14 range of alternatives to and alternative methods in
15 planning an undertaking, and it is asked if these
16 provisions apply for projects under a Class EA.

17 In your response you indicated that in
18 some cases these are considered at the parent Class EA
19 stage and in other cases for specific projects under
20 the Class EA, correct?

21 A. Yes it depends on the Class EA.
22 There is variation.

23 Q. Yes. In the case of timber
24 management, where it is proposed that alternatives to
25 will be considered?

1 A. I believe that alternatives to have
2 been considered in the Class EA document that was put
3 forward.

4 Q. Okay. What would constitute an
5 alternative to the four activities being proposed by
6 the Ministry that would be functionally different?

7 A. I guess an example would be the
8 alternative in the Class EA of recycling.

9 Q. Would import of wood be an
10 alternative to?

11 A. Yes, I think it would be.

12 Q. Now, would you agree with me that in
13 terms of the evaluation of alternatives to that the
14 definition posed of being functionally different can
15 sometimes be problematic and has been in past EAs?

16 A. Yes, it has been a problem.

17 Q. And one of the problems is that an
18 alternative to might be something along the following
19 lines, a portion of the wood being achieved from the
20 area in which the activity is being proposed, a portion
21 of the wood being achieved from recycling, a portion of
22 the wood being achieved from import?

23 That might be an alternative to; would it
24 not?

25 A. I guess it could be put forward as an

1 alternative to.

2 Q. Would you agree that the evaluation
3 of alternatives to of that nature would be very
4 difficult to establish at a Class EA level over the
5 entire area of the undertaking for all forest
6 management units?

7 MADAM CHAIR: Do you mean, Mr. Hanna,
8 that it would be difficult to supply timber from
9 recycling and imports?

10 MR. HANNA: Perhaps I can elaborate and
11 help the witness and Board on that, Madam Chair.

12 An example might be, and it's an issue
13 that has come up in my experience dealing with the
14 forest industry in the past, is that the public may
15 argue: Don't get the wood from this forest management
16 unit, get it from an adjacent forest management unit.

17 So it's a question whether or not that's
18 a legitimate proposition to be put forward in a timber
19 management plan and one can see that there is a whole
20 range of possible combinations of imports and exports
21 that might take place among forest management units,
22 different levels of recycling and a whole variety of
23 combinations of how the wood supply that the mill
24 demands might be met.

25 MADAM CHAIR: Which point are you

1 attempting to examine Ms. Dahl on?

2 MR. HANNA: The question of whether those
3 alternative to can be reasonably addressed at the Class
4 EA stage and whether those legitimately -- the more
5 complicated combinations are legitimate issues to be
6 addressed at a timber management planning level.

7 MS. DAHL: So you are asking if those are
8 legitimate alternatives to in a timber management plan?

9 MR. HANNA: Q. Yes.

10 MS. DAHL: A. I would have to say that
11 if the alternatives to have already been considered in
12 the parent document and a preferred alternative is
13 identified, then there wouldn't be a need to look at
14 those alternatives to once again at a forest management
15 unit level because the examination at the parent Class
16 EA level applies to the entire area of the undertaking.

17 Q. In order to reach that conclusion
18 then, Ms. Dahl, and I gather you have reviewed the
19 alternatives to evaluation in the parent EA, Class EA
20 and in the evidence of the Ministry of Natural
21 Resources?

22 A. I have looked at it in the Class EA
23 and I believe I have seen some of the evidence related
24 to it, but I couldn't say I've seen all of it.

25 Q. Based upon what you have seen, have

1 you seen a wide range of alternatives to that involve
2 various mixes of, for example, import, recycling and
3 supply of wood from an individual FMU?

4 A. Not from an individual FMU.

5 Q. All right. For the area of the
6 undertaking?

7 A. I have seen the alternatives put
8 forward by the MNR.

9 Q. Do those include a mix of types of
10 activities or alternatives that I have put to you?

11 A. Not that I'm aware of.

12 Q. Is it not consistent with the
13 evidence that you've given here repeatedly today, the
14 need to consider all options, that those options are
15 legitimate options that should be considered?

16 A. I agree it's important to consider
17 all options, but I would add that that importance
18 increases as you get down to progressively more and
19 more detailed options, as I explained earlier.

20 Q. I agree with you. Now, let's look at
21 the timber management plan for an individual forest
22 management unit, and I accept for the moment that those
23 range of alternatives to have not been considered at
24 the area of the undertaking within the parent Class EA.

25 Given your experience as an environmental

1 planner, would it be appropriate for the reasons you
2 just described in terms of more detail and all the
3 various fact that come into play to consider those
4 alternatives at the level of the timber management
5 plan, those intermediate alternatives, not the extreme
6 alternatives that are have been evaluated in the parent
7 Class EA, but the intermediate alternatives?

8 A. I'm not sure what you mean by
9 intermediate alternatives.

10 Q. All right. Combinations of
11 recycling, import and wood supply from the forest
12 management unit itself.

13 A. Now I'm confused. I'm sorry, I
14 thought you were referring to those as alternatives to.

15 Q. I am and I am continually referring
16 to them as alternatives to.

17 A. I guess the confusion then is what
18 you mean by intermediate alternatives.

19 Q. All right. We have agreed that at
20 the Class EA stage, and I won't pull it out right now,
21 but there have been examined at the Class EA stage
22 certainly the recycling alternative, recycling
23 alternatives as an extreme?

24 A. Yes.

25 Q. All of our wood from recycling or as

1 much possible, but there hasn't been any intermediate
2 combinations of recycling, import, virgin wood fiber,
3 correct? That's what we just agreed to.

4 A. Yes.

5 Q. Now, the question is -- the position
6 I'm putting right now is I can argue to this Board and
7 say there hasn't been a full range of alternatives to
8 and, therefore, reject the proposal, but there is
9 another approach to it from an environmental planning
10 point of view, is there not, and that is to deal with
11 those intermediate alternatives to at the timber
12 management plan when you can talk about details and you
13 can talk about site specific information that may
14 affect very much the viability of those alternatives?

15 A. I think that whether or not you would
16 consider those alternatives at the plan level would
17 form part of your Class EA.

18 The proponent would put forward what they
19 consider to be a reasonable range of alternatives to
20 and when the Class EA is approved there is a decision
21 of whether or not that was, in fact, a reasonable
22 range.

23 I don't think that you would consider
24 another level of alternatives at the project level on
25 the basis that you hadn't considered a reasonable range

1 in the parent document. I think that the reasons why
2 alternatives to are considered at the project level are
3 different and they are not related to the adequacy of
4 the alternatives to in the parent document.

5 Q. I'm looking at interrogatory No. 23
6 in response to part (b) which deals with the stages in
7 the process which various matters can be dealt with and
8 part (c) is the evaluation of alternatives to.

9 Do you see that?

10 A. I see that, but I don't agree that
11 that's the evaluation of alternatives to. It's a
12 general category of the alternatives that you evaluate.
13 It may be alternative methods or alternatives to. It's
14 the decision on what those alternatives will be.

15 Q. Do you feel that it is reasonable to
16 expect a proponent of this undertaking to evaluate
17 alternatives to, such as a mix of recycling, imported
18 wood fiber and virgin wood fiber? Is that a reasonable
19 alternative to assess?

20 A. It may be a reasonable alternative
21 to, yes.

22 Q. Is there anything in the Class EA
23 planning process which you are familiar with that would
24 prevent an alternative to of that nature being
25 evaluated at the project level?

1 A. I guess, first of all, there is not a
2 formal Class EA planning process set out anywhere. It
3 is done on a case-by-case basis.

4 If it's determined that it's appropriate
5 at the project level, then that's set out in the Class
6 EA and that's the way it is done, but it is not always
7 determined to be appropriate.

8 So in the planning processes for Class
9 EAs that I have seen there is some variation. Most of
10 them do not look at alternatives to at the project
11 level, although some of them will.

12 Q. Would be it be inappropriate in your
13 view to evaluate those types of alternatives to at a
14 forest management unit level under the parent Class EA
15 at a project level?

16 A. I guess in terms of timber management
17 I wouldn't say that it's inappropriate, but I would
18 also add that it's up to the proponent to determine
19 what's most appropriate for themselves.

20 Q. All right. Now, in response to part
21 (e) of interrogatory 19 which asked:

22 "Is it the position of the witness in MOE
23 that it is responsibly the proponent to
24 provide an assessment of the advantages,
25 disadvantages and net effects of each

1 alternative evaluated in developing a
2 specific proposal under a Class EA?"

3 A proposal meaning a specific project.

4 And your response was:

5 "Yes, but the level of detail can vary
6 widely between Class EAs."

7 Correct?

8 A. Yes.

9 Q. Now, in interrogatory No. 38 which is
10 at page 49, part (c), and this has to deal with the, I
11 believe, index that you have prepared, the heading
12 Environmental Effects Mitigation and Monitoring.

13 In my experience that's where I would
14 have looked to find a net effect analysis. Would that
15 be where I would look for it in some Class EAs?

16 A. In the environmental study report,
17 you mean?

18 Q. Yes.

19 A. Yes.

20 Q. In response to part (c), the question
21 was:

22 "Where would a member of the public look
23 to find the advantages, disadvantages
24 and net effect analysis?"

25 You indicate that:

1 "That information is not reported in the
2 Red Lake Timber Management Plan and MOE
3 does not propose it be included in any
4 future plans in the way that you have
5 suggested."

6 Now, the first thing I would like to deal
7 with is what is the way that you, I expect the
8 Coalition, have suggested? What is it that we have
9 suggested that MOE does not propose?

10 A. It refers to the overall aggregate
11 advantages, disadvantages and net effects of the
12 proposed activities as compared to the alternative
13 activities.

14 Q. So you are suggesting there shouldn't
15 be an evaluation of the advantages and disadvantages
16 and net effects of the timber management plan?

17 I want to make sure I understand it. It
18 is very important. I want you to make this very clear
19 for me.

20 A. MOE is not proposing an implicit
21 method for aggregating the advantages and disadvantages
22 and net effects of all of the proposed activities in
23 the timber management plan and all of the alternative
24 activities proposed in the timber management plan.

25 Q. So that information is not important

1 for the public, in your view?

2 A. I think that that information would
3 be nice for the public to have access to. However, MNR
4 has not proposed to provide it explicitly in this way
5 and MOE is not making any proposals ourselves to
6 require it. Our terms and conditions just deal with
7 our specific concerns.

8 Q. You have indicated that it would be
9 nice to have. Why would it be nice to have it?

10 A. Well, I think in an ideal world you
11 would have all of that information and you could
12 clearly set out it out so that it's --

13 Q. Would it be fair to say the choices
14 that are available and the implications of those
15 choices?

16 A. No, I'm referring to explicit
17 documentation of all of the advantages and
18 disadvantages and the specific net environmental
19 effects associated with all of the alternatives in a
20 timber management plan.

21 Q. So that the public could see the
22 choices that are available and the consequences of
23 those choices?

24 A. They would see that, but they would
25 also see, I would say, more than that in terms of

1 detail.

2 Q. And that's important information for
3 the public in order for arrive at a meaningful opinion
4 and provide meaningful input to the proponent?

5 A. It would assist in doing that, but I
6 don't think it's necessary to have that level of detail
7 to still present those options to the public and get
8 their comments, meaningful input on them.

9 Q. So given that we don't live in an
10 ideal world, basically what we are asking the public to
11 do is: Public, you go and distill out of the timber
12 management plan the advantages, disadvantages and net
13 effects because it's good to have, it will help you
14 make a meaningful decision, but because we aren't in an
15 ideal world and because it's just nice to have you are
16 going to have to do it yourself because we aren't doing
17 to do it?

18 A. No, I wouldn't say that's what we're
19 saying at all. In my evidence earlier I outlined why I
20 think it's important to present the options and the
21 advantages and disadvantages which are based on a
22 consideration of the net effects and MNR is also
23 proposing to provide that evaluation of alternatives.
24 So I think that that --

25 Q. No, the question here was --

1 MS. SEABORN: Just let the witness
2 finish, Mr. Hanna.

3 MR. HANNA: Sorry.

4 MS. DAHL: That information I think will
5 be made available to the public, although it may not be
6 as clearly and explicit as one would like it to be, but
7 it may not be possible to achieve that.

8 MR. HANNA: Q. It may not be possible.
9 I want to deal with the issue of possibility and the
10 ideal world and it would be nice to have because I
11 gather that's the sort of general theme in some of the
12 responses in the interrogatories that we received back.

13 The term reasonable and time and cost are
14 regular terms that you use in terms of the proposals by
15 the Coalition; is that correct? Is it reasonable to do
16 that level of detail?

17 MS. DAHL: A. Are you asking me if
18 that's reasonable to do?

19 Q. I am asking you if that was a measure
20 that you have used to decide whether or not certain
21 information should or should not be made available to
22 the public.

23 A. It's certainly a consideration in
24 that, yes.

25 Q. Right. Now, how is it proposed that

1 the level of detail in a timber management plan in
2 terms of advantages, disadvantages and net effects be
3 decided?

4 Like, that's a key question in any
5 environmental assessment I have ever been involved in
6 is, how much detail are you going to go into. Is that
7 your experience also?

8 A. It's not my experience that Class EAs
9 set out the amount of detail--

10 Q. No, I understand that. That wasn't
11 my question.

12 A. --that will be gone into.

13 Q. My question was, is the decision as
14 to the level of detailed analysis that is undertaken in
15 an environmental study report a key determination?

16 A. The level of detail is important in
17 terms of the public's ability to understand that
18 information so that there has to be a decision on when
19 the level of detail is adequate.

20 Q. Where do you see that occurring given
21 that we aren't going to -- or at least MOE is not
22 proposing to specify that in their terms and
23 conditions?

24 Where and how do you see that decision
25 being reached?

1 A. I think that's a decision that would
2 have to be reached by the planning team who are
3 preparing the plan and when they have adequate level of
4 detail with input from probably the local citizens'
5 committee as well on whether or not the level of detail
6 was adequate.

7 MADAM CHAIR: Ms. Dahl, wouldn't one be
8 able to expect that if the local citizens' committee
9 operates as it would be intended that it operate, that
10 you have well-informed people who are aggressive in
11 understanding the issue and aggressive in putting their
12 positions down on the table with respect to what they
13 want out of a timber management plan, that the planning
14 team or the district manager would have to pay
15 attention to the sort of information they thought they
16 and the public should see?

17 MS. DAHL: Yes.

18 MADAM CHAIR: I mean, I would find it
19 difficult to see how MNR in that position could say:
20 Well, you want this level of detail, but we are not
21 going to give it to you. I would think that that would
22 be could be a pretty difficult thing to do.

23 MS. DAHL: Yes. I mean, if there was a
24 specific concern and the local citizens' committee
25 thought you needed more information and greater detail

1 on it, then I think that MNR would certainly have to do
2 their best to get that level of detail that the
3 committee felt was appropriate.

4 MR. HANNA: Q. Now, I would like to move
5 on to part (h) of that interrogatory which asked --

6 MS. SEABORN: Which question are you on,
7 Mr. Hanna?

8 MR. HANNA: Question 19.

9 MS. SEABORN: Thank you.

10 MR. HANNA: Q. "Please provide the
11 definition used that separates the
12 proponent's undertaking of four timber
13 management activities from what is being
14 suggested as forest management?"

15 In your response you make reference to
16 the Coalition's terms and conditions 3 and 4 and I was
17 wondering if you could look those up. I would like to
18 ask you some questions about that.

19 MADAM CHAIR: Mr. Hanna, which term and
20 condition, I'm sorry?

21 MR. HANNA: No. 3 and 4, Madam Chair. It
22 is on the first arabic number page 1.

23 MADAM CHAIR: This is of your client's
24 terms and conditions?

25 MR. HANNA: Yes, Exhibit 1637.

1 MADAM CHAIR: It's coming.

2 MR. HANNA: Q. Perhaps just to expedite
3 things at the moment. Term and condition No. 3 is:

4 "The goal statement of each timber
5 management plan shall be to provide a
6 predictable supply of resource benefits
7 from the forest estate through the
8 management of the forest structure."

9 Term and condition 4 is:

10 "The ultimate objective shall be
11 described for an optimum mix of resource
12 benefits which shall be decided for each
13 forest management unit with a
14 comprehensive analysis of the full range
15 of alternatives, feasible combinations of
16 resource benefit supplies and extensive
17 public consultation."

18 Now, I would like you to point to the
19 specific wording, take each one individually, that
20 differentiates what is being stated there as forest
21 management from timber management. Let's deal with
22 term and condition 3 first.

23 MS. DAHL: A. The wording is:

24 "...to provide a predictable supply of
25 resource benefits from the forest estate

1 through the management of the forest
2 structure."

3 I think that indicates that it involves a
4 lot more than just timber management.

5 Q. But it talks strictly about the
6 manipulation or the management of the forest structure.

7 Are there other means to manipulate or
8 manage the forest structure that you are aware of other
9 than the four timber management activities?

10 A. I'm not sure. There may be.

11 Q. Presuming that we limit it to the
12 four activities, where does the flood gate open then?

13 A. Then I would say it's in the wording
14 to provide a predictable supply of resource benefits.

15 Q. All right. Now, you recall our
16 discussion before the break about the enhancement
17 measures that can be included--

18 A. Yes.

19 Q. --in an environmental assessment or
20 environmental study report or a timber management.

21 Now, I wonder if you have ever seen any
22 of Fisher's art, but you keep looking at it, it is
23 black and white and you see reverse images on it.

24 Are you familiar with that at all? I
25 want you to try and think of this that if you are

1 looking at a positive think of a negative.

2 What I mean by that is this, instead of
3 saying a predictable supply of resource benefits, look
4 at it and say that we are going to have a predictable
5 supply of net effects. Can you think of it in those
6 terms?

7 A. I'll try.

8 Q. If you think of it in terms of
9 predictable supply of net effects or a forecast or
10 prediction of the net effects of the proposed activity
11 or set of activities, would that not be consistent with
12 what, in fact, you see in a net effects analysis in an
13 environmental assessment?

14 MADAM CHAIR: Isn't Ms. Dahl's evidence
15 so far that a net effects analysis is not a requirement
16 of --

17 MR. HANNA: I understand that, Madam
18 Chair, but I think it is also her evidence that a net
19 effects analysis is desirable and the certainly the
20 guidelines make that very clear.

21 My point is simply here, if we had a net
22 effects analysis and this environmental assessment was
23 designed in such a way, could that be viewed as
24 essentially comparable to what is here, a predictable
25 supply of resource benefits.

1 MS. DAHL: I'm having trouble I think
2 comparing the two. What I say here is an objective
3 which would guide your planning process and a net
4 effects analysis is a way of documenting the effects
5 that would result from the activities and I see them as
6 two different things.

7 MR. HANNA: Q. I understand your
8 difficulty. Let me say this, is the net effects
9 analysis an important point of reference for
10 effectiveness monitoring, effects and effectiveness -
11 the terminology effects and effectiveness is somewhat
12 unique in this hearing, but let's call it effects
13 monitoring - associated with environmental assessments
14 in your view? That often is the focus of effects
15 monitoring?

16 A. Yes, the predicted effects are the
17 focus of effects monitoring.

18 Q. To see if you are achieving the net
19 effects that you anticipated when you carry out the
20 activity?

21 A. Yes, if you are able to predict net
22 effects, then you would be interested in if they in
23 fact occurred and how well your mitigation measures
24 actually worked.

25 Q. We will come back to the question of

1 whether we can predict them or not, but I accept that
2 for the time being.

3 Can we move on to term and condition 4.

4 I want to review term and condition 4 in light of your
5 response to part (1) of interrogatory No. 19. Part (1)
6 asked you:

7 "Do you agree that the purpose of the
8 environmental assessment in Ontario is to
9 provide for the betterment of the people
10 of Ontario or a part thereof by making
11 improved policy decisions?"

12 You disagreed and said:

13 "No. The purpose is to provide for the
14 betterment of the people of Ontario or
15 a part thereof by providing for the
16 protection, conservation and wise
17 management in Ontario..."

18 Correct?

19 A. Yes.

20 Q. Now, I would like no focus on the
21 term wise management, if I could, for a moment.

22 Now, would you agree that wise management
23 should strive to provide an optimum level of benefits
24 from the environment for either the people of Ontario
25 as a whole or a part thereof?

1 A. You could say that providing that
2 optimum benefits would be considered wise management,
3 yes.

4 Q. Providing less than the optimum mix
5 of benefits would obviously not be wise management,
6 correct?

7 A. No, I would disagree with that.

8 Q. All right. Give an example of a
9 situation where it would be wise management to provide
10 less than the optimum benefits for either the people of
11 Ontario or any part of Ontario in a timber management
12 planning context?

13 A. I think it may not always be
14 achievable or cost effective to obtain the optimum
15 benefits possible and in those cases you basically have
16 to try to do the best you can within reason.

17 Q. Let's accept that proviso. I think
18 that's one certainly the Board is sympathetic to and
19 one I'm sympathetic to and that is we have got to be
20 practical on this.

21 Let's accept within the practical
22 limitations, give me an example where looking at the
23 reasonable range of alternatives that might be cost
24 effective or reasonable, whatever basis used to assess
25 reasonableness, that it would be appropriate to select

1 than the optimum mix of benefits from the environment
2 that would be consistent with that purpose.

3 MADAM CHAIR: Mr. Hanna, where are we
4 going with this questioning?

5 MR. HANNA: Very much -- certainly as far
6 as the Coalition case it goes right to the heart of the
7 case, Madam Chair, and that is whether or not the
8 Environmental Assessment Act and environmental planning
9 principles established in this province require a
10 proponent to attempt through the evaluation of
11 alternatives to, alternative methods, net effects
12 analysis, mitigation measures, enhancement measures and
13 the whole ream of environmental planning procedures
14 that have been established in this province, that the
15 whole purpose of that is to achieve an optimum mix or
16 wise management, however you want to cast it, of the
17 environment of Ontario and that is the central core of
18 the Coalition's case.

19 MADAM CHAIR: You are saying you agree or
20 you disagree with the exalted language of the
21 Environmental Assessment Act?

22 MR. HANNA: No, we agree with it
23 wholeheartedly, Madam Chair. We are endorsing it with
24 both arms wide open.

25 MADAM CHAIR: Are you trying to get Ms.

1 Dahl to agree that a better definition than wise
2 management is improved public policy decisions?

3 MR. HANNA: No, Madam Chair. What I'm
4 trying to find out is back to term and condition No. 4
5 of the Coalition which deals with the question of an
6 optimum mix of resource benefits which Ms. Dahl has
7 indicated is a concern because of the scope of issues
8 that brings in, that this constitutes forest
9 management, on that basis that it should be -- the
10 Coalition's proposal should be rejected, at least as
11 far as the scope of alternatives.

12 I'm asking her now what -- I would like
13 an example of where less than an optimum mix of
14 resource benefits or, i.e., the wise management of
15 Ontario's environment, would be consistent with the
16 purpose of the act and consistent with her
17 understanding of the environmental assessment
18 procedure.

19 MADAM CHAIR: Do you understand that, Ms.
20 Dahl?

21 MS. DAHL: I think so. First I just
22 wanted to clarify that I don't believe that I have said
23 that the Coalition's proposal should be rejected.

24 What I did say in my evidence was that
25 the scope, range and level of detail involved in forest

1 management isn't necessary to analyse alternatives and
2 to make choices --

3 MR. HANNA: Q. Let's go back to your
4 very specific wording and that's on page 3 behind Tab
5 3. Your words are:

6 "The Coalition is essentially advocating
7 forest management and not timber
8 management through the optimum mix of
9 resource benefits."

10 I'm asking you, given the definition of
11 the purpose of the act, provide me an example where
12 something less than the optimum mix of resource
13 benefits within the practical constraints that you have
14 identified would be consistent with the purpose of the
15 act and that is the wise management of Ontario's
16 environment.

17 MR. MARTEL: Mr. Hanna, maybe you can
18 help me. Are you taking exception to the fact that Ms.
19 Dahl has said the Coalition is advocating forest
20 management?

21 MR. HANNA: Yes, Mr. Martel, because the
22 decision -- there hasn't been a formal decision of this
23 Board, but certainly the trend of this Board has been:
24 We are not here to consider forest management, and it
25 certainly has not been our evidence.

1 We have been dealing with timber
2 management activities and their effects on forest
3 structure and I am concerned about that statement in
4 that it suggests that the Coalition's proposals that
5 may be implied as forest management are not
6 legitimately --

7 MR. MARTEL: Why wouldn't you simply ask
8 her then to tell you where your client has taken the
9 position or based on something MOE has read that you
10 are suggesting it has got to be forest management
11 rather than this long kind of torturous route to get to
12 what you are saying which is, you prove to me that what
13 my client is after is forest management, but I think
14 that is what you are trying to get at.

15 MR. HANNA: That was the point of
16 interrogatory 19(h).

17 MR. MARTEL: Well, obviously you didn't
18 get the answer you wanted. I am just trying to short
19 circuit all of this and get right to the heart of it
20 and I think you should ask Ms. Dahl to tell you where
21 your client is saying it is forest management.

22 MR. HANNA: Well, Mr. Martel, her client
23 or Ms. Dahl has told us where it is. She said that the
24 major difference relates to MNR's definition of the
25 undertaking versus the OFAH/NOTO goal statement found

1 in terms and conditions 3 and 4.

2 I am now testing whether that goal
3 statement is consistent with the Environmental
4 Assessment Act and how it violates the principles of
5 good planning that the whole Environmental Assessment
6 Act is structured around?

7 I'm happy to short circuit this, Mr.
8 Martel.

9 MADAM CHAIR: I think Ms. Dahl has just
10 said that the ministry is not challenging what you
11 would like to see as a goal statement of timber
12 management planning.

13 MS. DAHL: Maybe I can clarify it. I'm
14 not saying that the goal statement is inconsistent with
15 the act or wouldn't achieve wise management and the
16 other things that the act is intended to achieve, but,
17 as I have said in the interrogatory responses, the
18 ministry takes the position that it is up to the
19 proponent to define what their undertaking is and what
20 their objectives are.

21 MR. HANNA: Q. But the proposition I put
22 to you, Ms. Dahl, is more pointed than that and that
23 is, would it be inconsistent with the act to do
24 anything less than wise management which I am
25 interpreting as an optimum mix of resource benefits?

1 That's the question.

2 MS. DAHL: A. I don't think it would be
3 inconsistent with the act. The act doesn't require
4 wise management, but the intention is --

5 Q. Does not require wise management?

6 A. The purpose is to achieve wise
7 management, but I don't think it specifically requires
8 wise management.

9 MADAM CHAIR: I don't think we are going
10 to get any further with this, Mr. Hanna. Ms. Dahl has
11 said that her client believes that it's the
12 responsibility of the proponent to make this
13 definition, but they don't see anything inconsistent
14 with your goal statement and the objectives of the
15 Environmental Assessment Act.

16 MR. HANNA: Madam Chair, just for the
17 record, we also are not challenging the proponent's
18 ability to define the undertaking. Just so that is
19 clear. That was not the purpose of my questions.

20 Madam Chair, perhaps seeing we have got a
21 procedural matter going this afternoon I will stop
22 there. I will do my best to be finished by lunch
23 tomorrow.

24 MADAM CHAIR: Thank you very much, Mr.
25 Hanna.

1 Thank you very much, witnesses. You
2 don't have to stay. We are going to have a fairly
3 short discussion now and you don't have to stay if you
4 don't want to.

5 Thank you very much.

6 ---(Panel withdraws)

7 MADAM CHAIR: Thank you very much for
8 coming to meet with the Board tonight. This had been a
9 date that had been scheduled in April 1991, a year ago,
10 when we put together a tentative schedule for the
11 entire hearing, and although we understand that the
12 parties met with Mr. Beram and hammered out a schedule
13 for the scoping sessions for the individual witness
14 panels of MNR's reply evidence we thought we would take
15 advantage of this date having been set to meet with you
16 and to tell you what direction we want to go in with
17 respect to the rest of the hearing.

18 I think there is a temptation on the part
19 of the Board and perhaps on the part of all of you who
20 have participated from the beginning of this to say:
21 Well, this hearing has been so long and so complex and
22 the end is in sight, let's just let it play itself out.
23 Let's just stick to a schedule the Board put together a
24 year ago and let's not change anything and let's just
25 get it done but not push ourselves any harder than we

1 have been pushing for four years now.

2 The Board is tempted to do that, but we
3 think that that would be a disservice to the process.
4 To have this hearing carry on even one day longer than
5 is absolutely necessary is simply untenable. We know
6 that all the parties, both the intervenors and the
7 proponent, have strained their resources to the limit.
8 We couldn't have expected at day one of the hearing
9 that anybody could have managed to survive for four
10 years and exist under the strain that all of you and
11 particularly the intervenors have had to face, not to
12 mention the taxpayers of Ontario who have had a big
13 bill to pay as a result of all our work.

14 We are asking for your cooperation today
15 and your suggestions as to how we are going to get this
16 hearing completed as expeditiously as possible.

17 We believe that there are a couple of
18 reasons why we might be able to finish the hearing
19 before the December 1st date that was scheduled a year
20 ago.

21 The first reason, in the Board's view, is
22 that MNR's written evidence is considerably smaller
23 than we might have thought a year ago. A year ago we
24 had no idea how much reply evidence the Ministry would
25 be putting in front of us, nor do I think did the

1 Ministry at that point know the extent of its reply
2 evidence.

3 We now have four volumes of written
4 evidence in front of us and I think it has been put
5 together as succinctly as possible, and instead of the
6 schedule as it now stands of some eight to ten weeks
7 for examination of reply evidence I want the parties to
8 think very carefully about whether we could accomplish
9 that in four to five weeks.

10 Now, we are going to have to look very
11 carefully at how much time will be taken in
12 examination-in-chief and then, of course, in
13 cross-examination. The Board has some comments to make
14 about how it intends to steer the parties through this
15 process.

16 If a shortened schedule for reply
17 evidence could be achieved, then we can begin to look
18 at concluding the argument stage that much sooner. We
19 believe that there is a potential for the schedule to
20 be compressed with respect to argument because of
21 essentially the processes involved with the proposed
22 terms and conditions, the exercises that all of you
23 have gone through in the last few years.

24 Essentially we have had in front of us
25 your positions with respect to the issues in dispute at

1 this hearing with respect to the intervenors certainly
2 since January 1990 and before that for the proponent.
3 There is no secret as to where each of the parties
4 stand with respect to most of the key issues at the
5 hearing.

6 The Board had had time to digest this
7 information and we have. You can be confident that we
8 don't let anything go by us without studying it very,
9 very hard and we think the parties should be in a good
10 position to begin preparing their written arguments
11 probably now if you are not doing it.

12 Obviously, you want to hear what's going
13 to be said in reply evidence, but certainly I don't
14 think a lot is going to be revealed with respect to
15 where the parties stand on the major issues, the major
16 decisions facing the Board.

17 In asking for your cooperation to
18 conclude the hearing as quickly and as fairly as we
19 possibly can, we also want to tell you a little bit
20 about the responsibility we feel as the Board
21 conducting this hearing and probably as you feel as
22 participants and that is essentially the credibility of
23 this hearing and what it has done to the EA process.

24 It is no secret that when critics discuss
25 the future of the environmental process and they point

1 to what's wrong with it they often point to how long
2 this hearing has taken to conduct.

3 I think all of us agree that we wouldn't
4 want to see any other hearing take as long as we have
5 and certainly they are going to learn in the future
6 from everything we have gone through and I expect that
7 things will be done much, much faster as a result.

8 I think it is pretty difficult to
9 convince critics of the EA process that almost seven
10 months will be required to complete reply and argument
11 for this hearing when I think the plans for the future
12 would see very complex hearings being conducted from
13 beginning to end in seven months, not just the
14 concluding stage of one hearing.

15 Again, we are asking for your cooperation
16 in this. I don't think the Board has done anything
17 unfairly throughout this long hearing and we are not
18 going to start doing that now, but we are asking very
19 much that you cooperate with us and if you can think of
20 any ways that we can reach the conclusion of this
21 hearing earlier than we had scheduled a year ago
22 because I think we have better information now about
23 what we are dealing with and how quickly we can
24 proceed.

25 Before I throw the floor open for some

1 discussion -- and the point this evening is for
2 discussion. It's not to argue with you that we need
3 "x" amount of time to complete the hearing. It is
4 really a matter of hearing from you whether you think
5 we can accomplish any of this.

6 A few matters that we would like you to
7 talk about this evening. First of all, will any of the
8 parties be disputing any of the evidence in these four
9 volumes as not being proper reply evidence?

10 In other words, the Board wants to know
11 is this essentially the reply evidence we are going to
12 be looking at, receiving, or will the parties be saying
13 there is something in here that they are going to
14 contest is not part of reply evidence or whatever. We
15 want to know that now. We are not going to wait until
16 we sit down and begin the cross-examination to hear a
17 motion, as Mr. Martel said. We want to sort these --
18 well, I don't know if these problems can be sorted out,
19 but we want to have some indication of what we are
20 facing in hearing this part of the evidence.

21 We understand that Mr. Cassidy's client
22 might be bringing reply evidence of a day in duration
23 and that is scheduled now for June the 1st. It would
24 be our intention if Mr. Cassidy were a two or day two
25 in reply that we would want the Ministry of Natural

1 Resources to begin immediately after that as opposed to
2 the date set out in Mr. Beram's evidence of the June
3 the 15th. We would be directing the Ministry to begin
4 its reply evidence on June the 2nd or 3rd.

5 MR. FREIDIN: I can advise, Madam Chair,
6 if that is what happens that the Ministry of Natural
7 Resources is prepared to start the first day of June if
8 that's necessary.

9 MADAM CHAIR: Okay. Thank you, Mr.
10 Freidin.

11 Also, we have two dates to scope the four
12 witness statements of reply evidence and the Board is
13 going to be very hard on what we are going to hear in
14 examination-in-chief and in cross-examination. We have
15 heard some important points examined extensively at
16 various stages of the hearing and we are not going to
17 revisit the whole issue again in reply. We are simply
18 not going to do that.

19 We think we have given the parties more
20 than ample opportunity to cross-examine as the parties
21 and the proponent presented their case and we are
22 simply not going to go over any of the same ground.

23 Certainly in reply evidence there are
24 updates, there are some issues that the parties will
25 want to touch upon, but we are not going to spend any

1 time, any long periods of time going over the same
2 grounds and during the scoping sessions it will be of
3 no surprise to any of the parties what the Board
4 considers to be areas that have been well canvassed
5 throughout this hearing.

6 We are going to be vigilant in guiding
7 both the proponent and the parties as to what we think
8 is necessary with respect to the information that we
9 are going to need in writing our decision, and we
10 simply put the parties on notice of that.

11 With those comments and insight into what
12 our thinking is about this, do any of the parties wish
13 to talk to the Board about these matters?

14 Mr. Freidin?

15 MR. FREIDIN: I think there is one thing
16 that should be kept in mind. We have the four witness
17 statements now, but the fifth one is in preparation
18 which is due on June the 1st, and then there was a
19 provision in the other order that MNR would have the
20 opportunity to seek leave to file supplementary reply
21 in relation to, I guess, the evidence which is going in
22 now and in the satellite hearings.

23 So there is a fifth witness statement
24 which is coming on June the 1st.

25 MADAM CHAIR: What is the content of the

1 fifth witness statement, Mr. Freidin?

2 MR. FREIDIN: The first four witness
3 statements were prepared before the final terms and
4 conditions of the other parties were put in. So what
5 you see in those four witness statements primarily is
6 an explanation of changes to MNR's terms and
7 conditions, an updating. That's primarily Panel No. 1.

8 Then you see in Panel 2 some evidence
9 which is led in relation to things which got raised by
10 other parties, not a lot, and then a lot of updating in
11 Panel 3.

12 We didn't in those four witness
13 statements attempt to respond specifically to specific
14 pieces of evidence which was given by the parties, but
15 we didn't know whether positions would change in their
16 terms and conditions. So what Panel 5 is going to be
17 is going to be that reply specifically to specific
18 portions of evidence.

19 Now, we are hoping to get keep that as
20 short as possible because some of the reply that we
21 would want to lead is in one to four, but not all of it
22 in terms of sort of saying specifically this piece --
23 Dr. Carr said this about British Columbia. There may
24 be something that sort of touches on that in our
25 witness statement No. 2, but if we want Mr. Armson to

1 say or somebody to say we don't agree with that for the
2 following reasons, that hasn't been done. So that's
3 going to be more of what Panel 5 is going to be all
4 about.

5 MADAM CHAIR: We notice in some parts of
6 the four witness statements you have addressed some
7 aspects of the Board's interrogatories. Will those be
8 answered -- the rest of those be answered in Panel 5?

9 MR. FREIDIN: No, we are hopeful that
10 those will be provided maybe in the next two or three
11 weeks. It has been a quite a task and it is almost
12 completed. So we intend to file -- those will be done.

13 Now, there is obviously some overlap
14 again between the subject matter in our four witness
15 statements. There may very well be once we start
16 examining specific evidence from specific parties we
17 would want to reply to it and say we answered that in
18 Board interrogatory 179 and we might just put down so
19 and so said this and is responded to in interrogatory
20 No. 179 and that's it.

21 MADAM CHAIR: And you can do that for
22 some of this material as well for Board interrogatories
23 because there are some answers in here. There are some
24 responses to Board interrogatories in this material as
25 well.

1 MR. FREIDIN: Yes, okay.

2 MR. BERAM: I might point out one matter,
3 Madam Chair. In the Board's directive of April 17th,
4 1991, the directive reads as follows:

5 "MNRI will also be..."

6 This is in the context of what we are
7 disputing right now about further reply evidence or a
8 fifth witness statement.

9 "MNRI will also be allowed to ask leave of
10 the Board to supplement its written
11 reply evidence within ten days after the
12 satellite hearing has been concluded."

13 It is my information or my understanding
14 and recollection that that actually happened the 7th of
15 April when the final satellite hearing began.

16 I wonder, Mr. Freidin, if in fact are you
17 asking for leave?

18 MR. FREIDIN: No.

19 MADAM CHAIR: That's why we have legal
20 counsel, Mr. Freidin.

21 MR. FREIDIN: That schedule which had
22 that date in it was based on the premise of the last
23 regular day of hearing would in fact be the satellite
24 hearing in North Bay.

25 Subsequent to that date what happened was

1 North Bay was moved back and then we have all the
2 hearing in May.

3 MR. BERAM: You will forgive me. That
4 direction certain precedes my arrival.

5 MR. FREIDIN: I think you would expect,
6 according to that, for us to seek leave to file
7 supplementary reply ten days after May 27 which is the
8 last day.

9 MADAM CHAIR: The Board was very
10 encouraged, Mr. Freidin, by the repeated statement in
11 each of the four witness statements that it would be
12 MNR's intention to limit oral evidence-in-chief
13 through various ways with respect to reply evidence.

14 I guess we want some sense from the
15 parties tonight about your thoughts on
16 cross-examination with respect to, I guess, to whether
17 the parties will be cross-examining extensively or you
18 think you will be cross-examining extensively on this
19 reply evidence or not or if you have some plan at this
20 early date.

21 Mr. Lindgren?

22 MR. LINDGREN: You are looking at me,
23 Madam Chair. We do plan to cross-examine on each of
24 the reply witness statements. However, I anticipate
25 that the cross-examination will be quite short and

1 quite focused.

2 I have indicated to Mr. Freidin that at
3 this point we believe that our cross-examination of
4 Panel 1 can be accomplished in two hours approximately,
5 up to half a day for each of Panel 2 and 3 and
6 approximately two hours for Panel 4.

7 I have also indicated to Mr. Freidin that
8 prior to filing my statement of issues for those panels
9 I will sit down and discuss with him the particular
10 issues that we would like to discuss during
11 cross-examination so that he has an opportunity to
12 limit his examination-in-chief.

13 I should also indicate for the record
14 that we do not intend to bring a motion to exclude any
15 of this reply evidence on the grounds it is not reply.

16 MADAM CHAIR: Thank you very much, Mr.
17 Lindgren. That's very helpful.

18 MR. FREIDIN: Madam Chair, if I can sort
19 of interject. The offer made by Mr. Lindgren to
20 advise, quite apart from the formal statement of
21 issues, what specifically they want to deal with in
22 their cross-examination was extremely helpful to us in
23 terms of scoping our evidence-in-chief.

24 For instance, when I was speaking to him
25 I said, I have got your interrogatories in Panel No. 2

1 and he was very candid with me and says: Well, you
2 don't really get any sense of the issues we want to
3 cross-examine on necessarily from those questions which
4 means that we would have to really effectively wait
5 until the end of May to really get an idea what it is
6 they want to cross-examine on, therefore, what issues
7 are important to them and, therefore, what we might
8 want to lead some evidence on.

9 I am just saying to the extent that any
10 parties can follow Mr. Lindgren's lead and provide not
11 only the subject matter that they want to deal with,
12 for instance, saying they want to deal with clearcuts
13 in cross-examination of Panel 2 won't help us, but if
14 there is a specific portion of the evidence on
15 clearcuts that is of concern to them that certainly
16 would enable us to focus our evidence which might
17 shorten it, but certainly it would focus it and make it
18 more relevant to them and hopefully to the Board.

19 MADAM CHAIR: Thank you.

20 MS. GILLESPIE: It might be helpful to
21 hear from Mr. Freidin how long he expects the
22 examination-in-chief to be.

23 We think that the length of the
24 cross-examination is going to be related to that. The
25 witness statements are helpful and the interrogatory

1 answers will also be helpful to make our estimate.

2 Right now we think that ours will also be
3 short and that two hours per panel would be plenty of
4 time, but I think it would be helpful to this
5 proceeding to have some idea of how long the
6 evidence-in-chief is anticipated to take.

7 MR. FREIDIN: I can do that. Our best
8 guess at the present time is that Panel 1 will be a day
9 but maybe less; Panel 2 will be approximately a day and
10 a half to two days; Panel 3 will be two days; Panel 3 a
11 day but perhaps less -- Panel 4, sorry, a day but
12 perhaps less. Panel 5 we don't know yet, of course.

13 It is my intention, Madam Chair -- it is
14 somewhat difficult. Again Panel 5 obviously is going
15 to deal with subject matters which are in Panel 1, 2, 3
16 and 4 and to the extent possible try and drag back
17 things in Panel 5 and have them dealt with in 1, 2, 3
18 and 4, but there may be some difficulty in doing that
19 in terms of getting witness prepared, but that's our
20 intention.

21 MADAM CHAIR: The Board will be giving
22 you our best guidance and advice on what we wish to
23 hear in oral examination.

24 MR. FREIDIN: Madam Chair, I know that
25 date is also set to have the scoping session in May,

1 but if the Board can in any way move that back and
2 provide us with that kind of guidance that would be of
3 assistance.

4 MADAM CHAIR: Mr. Cassidy, will you be
5 cross-examining on the reply evidence?

6 MR. CASSIDY: Madam Chair, the Ontario
7 Forest Industries Association would like to attend, but
8 do not have the financial resources which will permit
9 them to do so and, therefore, I will not be attendance
10 for the MNR reply. If I receive instructions to the
11 contrary I will advise Mr. Freidin and the Board as
12 soon as possible, but I do not expect to receive such
13 instructionss.

14 MADAM CHAIR: Is it your intention, Mr.
15 Cassidy, to prepare written argument?

16 MR. CASSIDY: Yes, it is, Madam Chair.
17 It is a matter of allocation of resources that the OFIA
18 has determined that resources have to be spent in the
19 preparation of written argument and the presentation of
20 oral argument.

21 MADAM CHAIR: What is your reaction, Mr.
22 Cassidy, to the Board's view that parties could have
23 oral argument prepared -- or could have written
24 argument and then present it orally in advance of the
25 December or the fall schedule?

1 MR. CASSIDY: As I understand the Board's
2 only previous ruling on this, and I reviewed it, it
3 indicated to me that the timetable was for oral
4 argument to be made between October 15th and November
5 15th.

6 Having reviewed the MNR reply evidence as
7 you have and considered the matter, my client is
8 anxious to have this hearing draw to an end as well and
9 we would be prepared to, assuming the MNR reply
10 evidence is truncated in its presentation, we would be
11 to prepared to suggest to the Board that the written
12 argument deadline be moved up and I would propose that
13 it be filed on - and this is simply my proposal. I
14 have not had a chance to discuss this with any of my
15 colleagues here - September 4th.

16 If the Board were prepared to do some
17 fast reading of that written argument we might -- and
18 by that I mean two full weeks, we could then commence
19 the oral argument on September 21st. That would give
20 two full weeks for the Board to read it which moves it
21 up at some length.

22 I am concerned about moving it any
23 further, Madam Chair, simply because of the limited
24 resources my client has and also because of the shear
25 volume of material that we have already started in

1 process of preparation and will have the benefit of the
2 time that the Ministry is leading its reply evidence to
3 work on, but nevertheless I am concerned about moving
4 in it any further than that.

5 However, in my view that does
6 represent -- those September dates do represent a time
7 saving that we should take advantage of. I would throw
8 that out simply as a suggestion and your comment on it.

9 MADAM CHAIR: Well, certainly the Board
10 would prefer to conclude the hearing in October as
11 opposed to December. There is no two ways about that.

12 MR. CASSIDY: I was thinking in those
13 time tables that if you stick to the month of actual
14 oral argument time frame we would be done October 21st
15 at the latest. I think there is a further provision
16 for MNR to have --

17 MADAM CHAIR: To have a day or two to
18 follow, yes.

19 MR. CASSIDY: But it would be highly
20 possible that we would finish by November the 1st at
21 the latest. I would suggest that would probably be the
22 latest if you adopted that time frame.

23 MADAM CHAIR: Mr. Hanna, does your client
24 have any plans with respect to reply evidence?

25 You can sit down. That's fine.

1 MR. HANNA: My instructions at this time
2 are that the extremely limited resources that we have -
3 I realize this is somewhat of a common refrain, but
4 unfortunately it is the circumstances we are all
5 facing - that those will be allocated primarily to
6 preparing written argument.

7 At this time I would like to leave the
8 option open that we may cross-examine on one or two of
9 the Ministry's reply panels, but it certainly is not
10 planned at the present time. Again, not because they
11 are not issues that we would like to explore, but it's
12 an allocation of resources.

13 MADAM CHAIR: Do the parties -- yes, Mr.
14 Freidin.

15 MR. FREIDIN: I was wondering, Ed, if you
16 have any idea assuming you are able to cross-examine on
17 the panels...

18 MR. HANNA: Right now it would be -- I
19 believe it is Panel 3.

20 MR. FREIDIN: Panel 3 is the one that
21 talks about all -- all right.

22 MADAM CHAIR: Clearcutting and...

23 MR. FREIDIN: That's 2.

24 MR. HANNA: Panel 3. That's the one
25 addressing the monitoring programs.

1 MR. FREIDIN: Two and three talk about
2 monitoring.

3 MR. HANNA: One of those.

4 MR. FREIDIN: Take up a day or two total?

5 MR. HANNA: If it's a day. It would be
6 no more than a day.

7 MADAM CHAIR: Do the parties have any
8 other ideas about how we can get through the rest of
9 the hearing as fairly and expeditiously as possible?

10 MR. FREIDIN: I do.

11 MADAM CHAIR: Mr. Freidin?

12 MR. FREIDIN: I will tell you what, maybe
13 Ms. Seaborn should have a chance. I want to make some
14 comment on Mr. Cassidy's suggestion. I don't know if
15 we have a time frame yet about MOE, about how long they
16 will be cross-examining.

17 MS. SEABORN: I think Ms. Gillespie
18 indicated that we would be approximately two hours per
19 panel. Our cross-examination on reply is obviously
20 going to focus in on MOE concerns and we will obviously
21 attempt not to rehash old ground.

22 In terms of responding, Madam Chair, to
23 your question about other ways to expedite matters, in
24 the ruling of a year ago, April 1991, one of the things
25 the Board indicated that it could provide to the

1 parties was a list of issues that it would like us to
2 focus our attention on in our written argument and that
3 from my client's perspective would be quite helpful
4 because we are starting to get to the stage where we
5 would want to look at an outline for final argument.

6 I think the parties had also proposed to
7 the Board that the parties may want to get together and
8 discuss a common format for that written argument so
9 that it would be as helpful as possible to the Board.

10 So to the extent that the Board could
11 give us that indication at some point over the next
12 several weeks, I think that would be helpful.

13 MADAM CHAIR: Yes, Ms. Seaborn, the Board
14 is prepared do that. We knew there had been an April
15 17th date that we had said that we would try to do it
16 by and we haven't, but we are prepared to give some
17 direction that might be limited, but it might be of
18 assistance to the parties.

19 MS. SEABORN: Thank you. That would be
20 helpful.

21 With respect to Mr. Cassidy's proposal
22 about moving up the date to file written argument, I
23 think that all of that really is contingent on, again,
24 the length of reply and certainly the meeting that we
25 were at with Mr. Beram a week ago, the indication from

1 the proponent was that it was going to take eight weeks
2 for that reply evidence in total.

3 Now, maybe Mr. Freidin can revisit that
4 issue in light of the estimates today and he has given
5 somewhat shorter estimates for the oral
6 evidence-in-chief today than which we had received at
7 the meeting last week, but I do see any fixing of a
8 date for filing of written argument to be somewhat
9 contingent on the length of the reply. It would be
10 difficult to file final argument on September 4th
11 obviously if the reply evidence hadn't finished yet.

12 MR. FREIDIN: If I can just comment on
13 that, Madam Chair.

14 First of all, just to correct something,
15 we have never said that we were going to take any more
16 than the normal two days for direct evidence on any of
17 our reply panels. The difficulty we have always had in
18 answering the question how long reply was going to take
19 was trying to predict how long cross-examination was
20 going to be. There is no question from what we are
21 hearing here now -- I don't see how it can possibly go
22 on for ten weeks based on these estimates.

23 MADAM CHAIR: It looks more like we could
24 be easily finished early August, if not the end of June
25 before our break.

1 MR. FREIDIN: If I might just address
2 that possibility and sort of also respond to what Mr.
3 Cassidy suggested.

4 You will recall the original order
5 basically said after some discussion that the
6 reasonable time periods for preparing written argument
7 would be six weeks after the reply evidence ended.

8 If you look at the actual decision and
9 look at the schedule at the back there are dates set,
10 but if you look at the actual reasons for decision
11 where the reasonable time frames were set out, the
12 reasonable time frames were as follows.

13 After the reply evidence ended there
14 would be six weeks for the parties to in fact complete
15 their written argument. There would then be -- well,
16 the Board would get this mound of paper and have to
17 look through it and then within two weeks indicate to
18 the parties what they felt they wanted the parties to
19 highlight in their oral submissions and then with that
20 information the parties would be given an additional
21 two weeks to go away and structure their oral
22 presentation accordingly and then we would start.

23 Now, what that really means is if you
24 look at --

25 MADAM CHAIR: We are not talking about

1 changing the steps, Mr. Freidin, and we disagree with
2 you that there were six week's time to prepare written
3 argument at the end of reply evidence because it was
4 our understanding that you might go well into August
5 with reply evidence. You might have taken it up to the
6 end of August.

7 We had never assumed that reply
8 evidence -- we assumed that there would be two weeks.
9 We assumed that reply evidence might go to the end of
10 August and there would only be two weeks following that
11 when written argument would have to be filed.

12 MR. FREIDIN: Well, let's not worry
13 about.

14 MADAM CHAIR: The steps after that, we
15 are not saying we shouldn't have those steps.

16 MR. FREIDIN: Whether it says six weeks
17 in here, and I have misinterpreted it, is not really
18 the crucial thing.

19 I would submit that with that time frame,
20 that six weeks after the end of reply evidence is
21 necessary to complete written argument at least, and I
22 can only speak for the proponent. Mr. Cassidy said he
23 may be able to do that in less time.

24 Let's say that we finish the reply
25 evidence by the end of June, then we have got the July

1 break. I hope no one is proposing people forget their
2 holidays and work through that period. So I would
3 suggest that you start counting whatever period you
4 provide on August the 4th. If we do that in six weeks
5 that takes us to September the 15th and we are really
6 into the schedule which you got on the back.

7 MADAM CHAIR: That has never been the
8 Board's intention that there would be a six-week delay
9 between the end of reply evidence and filing of written
10 argument.

11 MR. FREIDIN: I don't know what to say
12 other than to say that the proponent at this stage, if
13 we ended at the end of June we would not be able to
14 provide the Board with what I would say is a
15 satisfactory written argument for either our purposes
16 or for your purposes within four weeks.

17 MADAM CHAIR: Mr. Freidin, this is a
18 point that the Board wants to discuss with the parties.

19 Surely you are in a position to begin
20 framing your written argument now. Surely there can no
21 doubt that the issues are well delineated and the basis
22 of all the parties' written argument -- it is apparent
23 to the Board unless we are missing the whole point of
24 four years of evidence. It is apparent to us where the
25 parties stand on the major issues.

1 MR. FREIDIN: You know, where the parties
2 stand is not the thing which takes the time to
3 structure and prepare a proper written argument which
4 will be helpful to the Board.

5 MADAM CHAIR: Are you saying that reply
6 evidence does that? I don't think so.

7 MR. FREIDIN: No, no. If I could just
8 have one moment, please.

9 MADAM CHAIR: Mr. Freidin, we don't need
10 any answers from you today.

11 Did you have something you wanted to say
12 to the Board with respect to...

13 MR. FREIDIN: We are just looking at
14 these days and if in fact the Board was willing to sit
15 four full days, I mean full days, that would mean four
16 full days in Sudbury, Mr. Martel --

17 MR. MARTEL: Come to Sudbury. I will be
18 there.

19 MADAM CHAIR: We are willing to sit five
20 days a weeks, Mr. Freidin. We are most anxious to
21 complete reply evidence as quickly as possible.

22 MR. FREIDIN: I think in those
23 circumstance then Mr. Cassidy's suggestion of September
24 the 4th is a reasonable one.

25 MADAM CHAIR: Didn't be limited. The

1 Board will be full weeks. There is no problem with
2 that. We want to get finished quickly.

3 MR. FREIDIN: So do I.

4 MR. LINDGREN: Madam Chair, can I suggest
5 perhaps a variation on Mr. Cassidy's proposal. I will
6 throw it in on the table for discussion purposes.

7 We can live with the September 4th filing
8 date as well. We are a little bit concerned that if
9 oral argument is to commence on September 21st that
10 only gives the Board two weeks to sift through the
11 material and to tell us what you want to hear about.

12 MR. CASSIDY: I didn't want to rush you.
13 I was just throwing those out.

14 MR. LINDGREN: On a personal note, I also
15 have a trial on the 21st. I would like to be at this
16 final argument.

17 MR. CASSIDY: What are you charged with?

18 MR. LINDGREN: I'm still looking for a
19 good lawyer.

20 MR. CASSIDY: Here. (handed)

21 MR. LINDGREN: My suggestion, Madam
22 Chair, is a filing date of September 4th.

23 MR. LINDGREN: It is a blank card, Mr.
24 Cassidy.

25 MR. CASSIDY: It works wonders.

1 MR. LINDGREN: Then oral argument
2 commencing on September 28th and continuing until
3 October 23rd which is four weeks. That gives the MNR
4 the week of October 26th to do any oral reply that it
5 feels is necessary. I suggest that might be a fairer
6 and more reasonable time frame to work with.

7 MS. SEABORN: Do you think we could aim
8 to conclude that on Hallowe'en, Mr. Lindgren, based on
9 that --

10 MR. LINDGREN: That's a pretty scary
11 proposition.

12 MR. MARTEL: What date would you have
13 them start the oral?

14 MR. LINDGREN: September 28th which is a
15 Monday.

16 MR. MARTEL: Then for a month you said
17 and then a week off for MNR.

18 MR. LINDGREN: I see four weeks running
19 from September 28th to October 23rd and then if the MNR
20 feels it necessary to make reply argument, then that
21 would occur during the week of October 26th and we
22 would still finish by November 1st.

23 MR. CASSIDY: I withdraw my suggestion.
24 I think Mr. Lindgren's does make sense. I admit I was
25 trying to rush the Board and I apologize for that, but

1 that would take -- it sounds like we are saving a
2 month's time with MNR's reply. So we are then by
3 moving this up really saving that month.

4 MADAM CHAIR: All right. Is there
5 anything else any other -- if the parties have any
6 other suggestions they can discuss these with Mr. Beram
7 and anything we can do to finish the hearing will be of
8 benefit to all of us.

9 Mr. Freidin?

10 MR. FREIDIN: I would just like to
11 repeat, as soon as people can tell us what they want to
12 cross-examine on and as soon as the Board can find time
13 to deal with those other matters that would be helpful.

14 MADAM CHAIR: Thank you. Thank you very
15 much for coming today and we will continue tomorrow
16 morning at nine o'clock.

17
18 ---Whereupon the hearing was adjourned at 4:50 p.m., to
19 be reconvened on Wednesday, April 29, 1992
20 commencing at 9:00 a.m.

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25 MC [C. copyright 1985].



